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DEPARTMENT OF THE TREASURY

5 CFR Part 3101

Supplemental Standards of Ethical Conduct for Employees of the Department of the Treasury; Correction

AGENCY: Department of the Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to a final rule that was published in the **Federal Register** on Thursday, November 6, 2014. The final rule amended the Department of the Treasury's (the Department or Treasury) Supplemental Standards of Ethical Conduct for Employees of the Department of the Treasury (Supplemental Standards) that was issued by the Department with the concurrence of the Office of Government Ethics (OGE).

DATES: *Effective date:* February 12, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth Horton, Deputy Assistant General Counsel for Ethics, Office of the General Counsel, Department of the Treasury, 1500 Pennsylvania Avenue NW., Room 2221, Washington DC 20220; (202) 622–0450.

SUPPLEMENTARY INFORMATION:

I. Background

On November 6, 2014, Treasury published a final rule amending its Supplemental Standards of Ethical Conduct. 79 FR 65873. Treasury amended its Supplemental Standards, codified at 5 CFR part 3101, effective November 6, 2014, to account for current Department structure resulting from organizational changes that established new offices or bureaus within Treasury and transferred certain functions and/or bureaus from the Department. The final rule also amended the Supplemental Standards applicable to employees of the Office of the Comptroller of the Currency (OCC), 5 CFR 3101.108, which generally prohibit OCC employees from investing in or borrowing from OCC-supervised institutions. See 79 FR 65873–65879.

II. Need for Correction

In order to reflect Treasury's current organizational make up, the final rule amended the Supplemental Standards to remove references and rules applicable to employees of the Bureau of Alcohol, Tobacco and Firearms (ATF), the Federal Law Enforcement Training Center, the United States Customs Service (USCS), the United States Secret Service (USSS), and the Office of Thrift Supervision (OTS), as these are no longer bureaus or components of the Department.

The Department inadvertently left references to OTS, ATF, USCS, and USSS in two notes following §§ 3101.103 and 3101.104 of the Supplemental Standards. This technical correction revises these sections to remove these references.

Lists of Subjects in 5 CFR Part 3101

Conflict of interests, Ethics, Extensions of credit, Government employees, OCC employees.

For the reasons set forth in the preamble, the Department, with the concurrence of OGE, corrects 5 CFR part 3101 as follows:

PART 3101—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF THE TREASURY

■ 1. The authority citation for part 3101 continues to read as follows:

Authority: 5 U.S.C. 301, 7301, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); 18 U.S.C. 212, 213, 26 U.S.C. 7214(b); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.203(a), 2635.403(a), 2635.803, 2635.807(a)(2)(ii).

■ 2. In § 3101.103, the Note is revised to read as follows:

§ 3101.103 Prohibition on purchase of certain assets.

* * * * *

Note to § 3101.103. Employees of the OCC are subject to additional limitations on the purchase of assets that are set out in the OCC-specific rules contained in § 3101.108.

■ 3. In § 3101.104, the Note after paragraph (a) is revised to read as follows:

§ 3101.104 Outside employment.

* * * * *

Note to paragraph (a). Employees of the IRS, Legal Division, and OCC are subject to additional limitations on outside employment and activities that are set out in bureau-specific rules contained in this part.

* * * * *

By the Department of the Treasury.

Christopher J. Meade,

General Counsel.

Dated: January 30, 2015.

By the Office of Government Ethics.

Walter M. Shaub, Jr.,

Director.

[FR Doc. 2015–02918 Filed 2–11–15; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2014–1063]

RIN 1625–AA08

Special Local Regulation; San Diego Crew Classic; Mission Bay, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule.

SUMMARY: The Coast Guard is temporarily changing the date of the special local regulation on the navigable waters of Mission Bay, San Diego, California in support of the annual San Diego Crew Classic rowing race. This temporary interim rule adjusts the dates for the established special local regulations. This temporary interim rule provides public notice of the changed date and is necessary to ensure the safety of participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Unauthorized persons and vessels are prohibited from entering into, transiting through, or anchoring within the special local regulations unless authorized by the Captain of the Port (COTP), or his designated representative. The Coast Guard requests public comments on the temporary interim rule.

DATES: This rule is effective from March 15, 2015 through April 15, 2015. This rule will be enforced from 7 a.m. until 6:30 p.m. March 28, 2015 and from 7 a.m. until 3:30 p.m. on March 29, 2015. Public comments must be received by March 16, 2015.

ADDRESSES: Submit comments using *one* of the listed methods, and see **SUPPLEMENTARY INFORMATION** for more information on public comments.

- *Online—http://www.regulations.gov* following Web site instructions.
- *Fax*—202–493–2251.
- *Mail* or *hand deliver*—Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Hand delivery hours: 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays (telephone 202–366–9329).

Documents mentioned in this preamble are part of docket [USCG–2014–1063]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation, West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Nick Bateman, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7656, email *Nick.G.Bateman@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DH Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TIR Temporary Interim Rule
BN Broadcast Notice to Mariners
LNM Local Notice to Mariners
COTP Captain of the Port

A. Public Participation and Comments

We encourage you to submit comments (or related material) on this temporary interim rule. We will consider all submissions and may adjust our final action based on your comments. Comments should be marked with docket number USCG–2014–1063 and should provide a reason for each suggestion or recommendation. You should provide personal contact information so that we can contact you if we have questions regarding your comments; but please note that all comments will be posted to the online docket without change and that any personal information you include can be searchable online (see the **Federal Register** Privacy Act notice regarding our public dockets, 73 FR 3316, Jan. 17, 2008).

Mailed or hand-delivered comments should be in an unbound 8½ x 11 inch format suitable for reproduction. The Docket Management Facility will acknowledge receipt of mailed comments if you enclose a stamped, self-addressed postcard or envelope with your submission.

Documents mentioned in this interim rule, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following the Web site's instructions. You can also view the docket at the Docket Management Facility (see the mailing address under **ADDRESSES**) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

B. Regulatory History and Information

The San Diego Crew Classic is an annual rowing race listed in 33 CFR 100.1101 (table 1, item 3) for Southern California annual marine events for the San Diego Captain of the Port Zone. Special local regulations exist for the marine event to allow for special use of the Mission Bay waterway to allow for two days of racing. The event is normally held in April. For 2015, the event's organizer has shifted the dates up from April to March. This temporary interim rule is therefore necessary to ensure that the same measures normally provided in April by the marine event special local regulations are in place for the March 2015 dates.

The Coast Guard is issuing this temporary interim rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.''

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. The publishing of an NPRM would be impracticable since immediate action is needed to minimize potential danger to the participants and the public during the event. The danger posed by the large volume of weekend marine traffic in Mission Bay makes special local regulations necessary to provide for the safety of participants, event support vessels, spectator craft and other vessels transiting the event area. For the safety concerns noted, it is important to have these regulations in effect during the event. The Coast Guard was not informed of the changed date of the event with sufficient time to solicit comments through an NPRM and publish a final rule. This interim rule allows the Coast Guard to publish the regulatory text but still receive comments on the impact, if any, the rule will have. The Coast Guard will consider any comments received prior to the event date.

To advise the public of the restrictions, the Coast Guard will issue a broadcast notice to mariners (BNM) to advise vessel operators of navigational restrictions. In addition, Coast Guard will also advertise notice of the event and event date changes via local notice to mariners (LNM) report. On-scene Coast Guard and local law enforcement vessels will also provide actual notice to mariners. For the same reasons, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, because immediate action is needed to ensure the safety of the event. However, notifications will be made to users of the affected area near Mission Bay, San Diego, California via marine information broadcast and a local notice to mariners.

Furthermore, we are providing an opportunity for subsequent public comment and, should public comment show the need for modifications to the special local regulations during the 2015 event, we may make those modifications and will provide actual notice of those modifications to the affected public.

C. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1233, which authorize the Coast Guard to establish, and define special local regulations. The Captain of the Port San Diego is establishing a special local regulation for the waters of Mission Bay, San Diego, California to protect event participants, spectators and transiting vessels. Entry into this area is prohibited unless specifically authorized by the Captain of the Port San Diego or designated representative.

D. Discussion of the Rule

The San Diego Crew Classic is an annual rowing race normally held on the first Saturday and Sunday in April in Mission Bay, San Diego, California.

The regulation listing annual marine events within the San Diego Captain of the Port Zone and special local regulations is 33 CFR 100.1101. Table 1 to § 100.1101 identifies special local regulations within the COTP San Diego Zone. Table 1 to § 100.1101 at item ''3'' describes the enforcement date and regulated location for this marine event.

The date listed in the Table has the marine event on the first Saturday and Sunday in April. However, this temporary rule changes the marine event date to 28 March, 2015 and 29 March, 2015 to reflect the actual date of the event this year.

The Coast Guard is establishing a temporary special local regulation for a marine event on Mission Bay that will be enforced from 7 a.m. to 6:30 p.m. on March 28, 2015 and from 7 a.m. to 3:30 p.m. on March 29, 2015. The effect of the temporary special local regulations will be to restrict navigation in the vicinity of the rowing race site until the conclusion of the races. The limits of the special local regulation will include portions of the navigable waters of Mission Bay known as Fiesta Bay in Mission Bay, San Diego, California.

The Coast Guard will temporarily suspend the regulation listed in Table 1 to § 100.1101 item ''3'', and insert this temporary regulation at Table 1 to § 100.1101, at item ''19''. The special local regulation will be enforced from 7 a.m. until 6:30 p.m. March 28, 2015 and from 7 a.m. until 3:30 p.m. on March 29, 2015. This change is needed to accommodate the sponsor's event plan. No other portion of Table 1 to § 100.1101 or other provisions in § 100.1101 shall be affected by this regulation.

The special local regulations are necessary to provide for the safety of the crew, spectators, participants, and other vessels and users of the waterway for this competitive rowing race that will consist of a 2,000 meters long eight lane course, utilized over two weekend days. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this regulated waterway unless authorized by the Coast Guard Captain of the Port (COTP), or his designated representative, during the proposed times. The two day event will include racing on Saturday and Sunday. Before the effective period, the Coast Guard will publish information on the event in the weekly LNM.

E. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size, location, and the limited duration of the marine event and associated special local regulations. Optional waterway routes exist to allow boaters to transit around the marine event area, without impacting the racing. Additionally, to the maximum extent practicable, the event sponsor will assist with the movement of boaters desiring to transit the racing area during non-racing times throughout the two days.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the impacted portion of Mission Bay, San Diego, California from 7 a.m. to 6:30 p.m. on March 28, 2015 and 7 a.m. to 3:30 p.m. on March 29, 2015.

This special local regulation will not have a significant economic impact on a substantial number of small entities. Although the special local regulations would apply to a broad portion of Mission Bay, traffic would be allowed to pass around the zone or through the zone with the permission of the COTP, or his designated representative. The event sponsor, in addition to advertising the event, will also to their maximum extent assist boaters wishing to transit the racing area during non-racing times throughout the two days. Before the effective period, the Coast Guard will publish event information on the internet in the weekly LNM marine information report. And during the event, the Coast Guard will provide a BNM via marine radio.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the

person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishment of marine event special local regulations on the navigable waters of Mission Bay. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. In § 100.1101, in Table 1 to § 100.1101, suspend item ''3'' and add temporary item ''19'' to read as follows:

§ 100.1101 Southern California Annual Marine Events for the San Diego Captain of the Port Zone.

* * * * *

TABLE 1 TO § 100.1101

[All coordinates referenced use datum NAD 83]

*	*	*	*	*	*	*

19. San Diego Crew Classic

Sponsor	San Diego Crew Classic.
Event Description	Competitive Rowing Race.
Date	March 28, 2015 and March 29, 2015.
Location	Mission Bay, San Diego, CA.
Regulated Area	The waters of Mission Bay to include. South Pacific Passage, Fiesta Bay, and the waters around Vacation Isle.

Dated: January 30, 2015.

J.S. Spaner,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2015–02964 Filed 2–11–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0069]

Drawbridge Operation Regulation; Curtis Creek, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the draw of the CSX Railroad Bridge, across Curtis Creek, mile 1.3, Baltimore, MD. This temporary deviation allows the swing bridge to remain in the closed to navigation position to facilitate railway tie replacement on the CSX Railroad swing bridge.

DATES: This deviation is effective from 7 a.m. on February 23, 2015 to 4 p.m. on March 20, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0069] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Jim Rousseau, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398–6557, email *James.L.Rousseau2@uscg.mil.* If you have questions on reviewing the docket, call Cheryl Collins, Program Manager, Docket Operations, 202–366–9826.

SUPPLEMENTARY INFORMATION: The CSX Corporation, who owns and operates this swing bridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.5 to facilitate railway tie replacement.

Under the regular operating schedule, the CSX Railroad Bridge, mile 1.3, in Baltimore, MD, the draw must open promptly and fully for the passage of vessels when a request or signal to open is given. The draw normally in the open to navigation position and only closes for train crossings or periodic maintenance. The CSX Railroad Bridge, at mile 1.3, across Curtis Creek in Baltimore, MD, has a vertical clearance in the closed position to vessels of 13 feet above mean high water.

Under this temporary deviation, the drawbridge will be maintained in the closed to navigation position but will be able to open for navigation with a 15 to 20 minute advance notice by contacting (410) 916–5045 or utilizing VHF Channel 13 between 11 a.m. to 4 p.m., Monday through Thursdays from February 23, 2015 until March 20, 2015. In accordance with 33 CFR 117.41, the drawbridge will be tended during that time. The bridge will operate under the normal operating schedule at all other times. Emergency openings can be provided with advance notice by contacting (410) 354–1374 or utilizing VHF Channel 13 or 16. There are no alternate routes for vessels transiting this section of the Curtis Creek but vessels may pass before 11 a.m. and after 4 p.m. without advance notice.

Curtis Creek is used by a variety of vessels including military, tugs, commercial, and recreational vessels. The Coast Guard has carefully coordinated the restrictions with these waterway users. The Coast Guard will also inform additional waterway users through our Local and Broadcast Notice to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impacts caused by the temporary deviation. Mariners able to pass under the bridge in the closed position may do so at any time. Mariners are advised to proceed with caution.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 3, 2015.

James L. Rousseau,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2015–02966 Filed 2–11–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0064]

Drawbridge Operation Regulation; Isle of Wight, Ocean City, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the regulations governing the operation of the Route 50 Bridge, over Isle of Wight (Sinepuxent) Bay, mile 0.5 at Ocean City, MD. The deviation is necessary to accommodate the 10th annual ''Island 2 Island'' Half Marathon. This deviation allows the Harry Kelly Bridge to remain in the closed position for the duration of the event.

DATES: This deviation is effective 8 a.m. on May 2, 2015, to 10:30 a.m. on May 2, 2015.

ADDRESSES: The docket for this deviation [USCG–2015–0064] is available at *http://www.regulations.gov.* Type the docket number in the ''Search'' box and click ''Search.'' Click on the Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Kashanda Booker, Bridge Management Specialist, Fifth Coast Guard District, telephone (757) 398–6227, email: *Kashanda.l.booker@uscg.mil.* If you have questions on reviewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The OC Tri Running Sports, on behalf of Maryland Transportation Authority, has requested a temporary deviation from the current operating regulations of the Route 50 Bridge across Isle Wight (Sinepuxent) Bay mile 0.5, at Ocean City, MD. The event brings in over 4,000 runners and 6,000 spectators. OC Tri Sports is changing the course location to accommodate the request of the community.

The closure has been requested to ensure the safety of the increased volumes of runners and spectators that will be participating in the Half Marathon on May 2, 2015. Under this temporary deviation, the Route 50 Bridge will remain in the closed position from 8 a.m. through 10:30 a.m. Vessels that can pass under the bridge without a bridge opening may do so at all times. The vertical clearance in the closed position is 13 feet above mean high water. The bridge will not be able to open in case of an emergency.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 4, 2015.

James L. Rousseau,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2015–02970 Filed 2–11–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0977]

Drawbridge Operation Regulation; Snohomish River, Everett, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from drawbridge regulation; modification of effective date.

SUMMARY: The Coast Guard is modifying the effective date of a published temporary deviation from the operating schedule that governs the Washington State Route 529 (SR 529) twin bridge south bound across the Snohomish River, mile 3.6, at Everett, WA. The modification of the date is necessary to further facilitate mechanical adjustment of newly installed bridge joints. This deviation allows the bridges to remain in the closed to navigation position for four weeks.

DATES: The deviation published in the **Federal Register** on November 17, 2014 (*79 FR 68365*) is effective without actual notice from February 12, 2015 to 11 p.m. on March 4, 2015. For the purposes of enforcement, actual notice will be used from 7 a.m. on February 2, 2015, until February 12, 2015.

ADDRESSES: The docket for this deviation, [USCG–2014–0977] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Steven M. Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *d13-pf-d13bridges@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: On November 17, 2014, the Coast Guard's notice of temporary deviation from regulations under the same docket number, USCG–2014–0977 was published in the **Federal Register** (*79 FR 68365*). That document resulted from Washington State Department of Transportation's (WSDOT) request for a temporary deviation, occurring from 8 a.m. on January 10, 2015 to 11 p.m. on February 15, 2015, from the normal operation of the drawbridge to perform adjustments on bridge joints. Subsequent to the approval of that request, Washington State Department of Transportation requested a modification to the temporary deviation for dates in early February, 2015 through early March, 2015 to complete removal of old warn joints, install and adjust new joints. Coordination between all interested parties determined that all work could be accomplished during one scheduled closure occurring in early February, 2015 to early March, 2015. This new scheduling avoids two separate deviations causing a longer term impact on navigation. Therefore, through this document, the Coast Guard modifies the dates of the previously approved temporary deviation. The modification allows the drawbridge of the SR 529 Twin Bridges south bound, mile 3.6, crossing the Snohomish River at Everett, WA, to open on demand with at least twenty four hours of notice for five days, and followed with a closed-to-navigation position until early March, 2015. The deviation is effective from 7 a.m. on February 2, 2015, open on demand with at least a twenty four notice, until 6 a.m. on February 7, 2015. The drawbridge will then be in the closed-to-navigation position from 7 a.m. on February 7, 2015 until 11 p.m. on March 4, 2015.

Notices of the deviation schedule will be published in the Thirteenth Coast Guard District Local Notice to Mariners and will be broadcast via the Coast Guard Broadcast Notice to Mariners System. A Broadcast Notice to Mariners will be used to update mariners of any changes to the planned schedule for this deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 2, 2015.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2015–02972 Filed 2–11–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0053]

Drawbridge Operation Regulation; Lake Washington Ship Canal, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Seattle Department of Transportation (SDOT) Fremont Bridge, across the Lake Washington Ship Canal, mile 2.6, at Seattle, WA. The Fremont Bridge is a double leaf bascule bridge. This deviation is necessary to allow the bridge to operate in single leaf mode while work crews conducting bridge painting are onsite. This deviation allows a double leaf opening with a five hour advance notice. For all other openings, one half of the bridge will remain in the closed position while reducing the vertical clearance of the non-operating span by four feet to account for the installation of a moveable platform underneath the bridge.

DATES: This deviation is effective without actual notice from February 12, 2015 until May 1, 2015. For the purposes of enforcement, actual notice will be used from the date the rule was

signed, January 28, 2015, until February 12, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0053] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *Steven.M.Fischer3@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Seattle Department of Transportation (SDOT) has requested a temporary deviation from the operating schedule for the Fremont Bridge, mile 2.6, crossing the Lake Washington Ship Canal at Seattle, WA. The deviation is necessary to accommodate SDOT workers for a bridge painting project. To facilitate this event, the full draw of the bridge will not open for vessel traffic unless a five hour notice is provided to the bridge operator. For all other openings, one half of the bridge, or single leaf, will remain in the closed position while reducing the vertical clearance of the non-operating span by four feet to account for the installation of a moveable platform underneath the bridge.

The Fremont Bridge, mile 2.6, provides a vertical clearance of 14 feet (31 feet of vertical clearance for the center 36 horizontal feet) in the closed position. The clearance is referenced to the mean water elevation of Lake Washington. The normal operating schedule for the Fremont Bridge is set out in 33 CFR 117.1051 and states that the bridge need not open from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m. Monday through Friday except all Federal holidays but Columbus Day for any vessel of less than 1000 tons, unless the vessel has in tow a vessel of 1000 gross tons or over. The normal operating schedule for this bridge also requires one hour advance notification for bridge openings between 11 p.m. and 7 a.m. daily. Waterway usage on the Lake Washington Ship Canal ranges from commercial tug and barge to small pleasure craft.

Vessels able to pass through the bridge in the closed positions may do so at any time. The bridge will be able to open one leaf, half of the draw span, for emergencies. Furthermore, there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 28, 2015.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2015–02492 Filed 2–11–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0863; FRL–9921–51–Region 9]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern criteria air pollutants including oxides of nitrogen (NO_X) and particulate matter (PM) emissions from boilers, steam generators, and process heaters. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on April 13, 2015 without further notice, unless EPA receives adverse comments by March 16, 2015. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0863, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, (415) 947–4126, *law.nicole@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to EPA.

Table of Contents

I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules addressed by this rule with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Amended	Submitted
SJVUAPCD	4307	Boilers, Steam Generators, and Process Heaters—2.0 MMBtu/hr to 5.0 MMBtu/hr.	05/19/11	07/25/14
SJVUAPCD	4308	Boilers, Steam Generators, and Process Heaters—0.075 MMBtu/hr to less than 2.0 MMBtu/hr.	11/14/13	05/13/14

On September 11, 2014 and July 18, 2014, EPA determined that the submittals for SJVUAPCD 4307 and SJVUAPCD 4308 met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

We approved an earlier version of Rule 4307 into the SIP on January 13, 2010 (75 FR 1715) and Rule 4308 on December 30, 2010 (76 FR 5276).

C. What is the purpose of the submitted rule revisions?

NO_X helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control NO_X and PM emissions. Rule 4307 contains emissions limitations for NO_X and PM. It has also been revised to require tree nut pasteurizers to be fired using Public Utility Commission (PUC) quality natural gas and also adds recordkeeping requirements for those units. Rule 4308 has emissions limitations for NO_X and has been revised to lower the emission limit for certain types of instantaneous water heaters and removes outdated language. EPA's technical support documents (TSDs) have more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

40 CFR part 81 describes SJVUAPCD as regulating an extreme nonattainment area for the 8-hour 1997 and 2008 Ozone National Ambient Air Quality Standards (NAAQS) and a non-attainment area for the 24-hr 1997 and 2006 $PM_{2.5}$ NAAQS. Our evaluation of these rules focuses on NO_Xbecause it is a precursor to ozone and PM. SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' (57 FR 13498, April 16, 1992 and 57 FR 18070, April 28, 1992).
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations'' (''the Bluebook,'' U.S. EPA, May 25, 1988; revised January 11, 1990).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies'' (''the Little Bluebook'', EPA Region 9, August 21, 2001).
4. ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule'' (''the NO_X Supplement,'' 57 FR 55620, November 25, 1992).
5. ''Alternative Control Techniques Document—NO_X Emissions from Industrial/Commercial/Institutional (ICI) Boilers'' (EPA–453/R–94–022–*1994/03,* March 1994).
6. ''Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters,'' (CARB, July 18, 1991).

Generally, SIP rules must require Reasonably Available Control Technology (RACT) for each NO_X major source in ozone nonattainment areas classified as moderate or above (see sections 182(b)(2) and 182(f)). As noted earlier, SJVUAPCD regulates an ozone nonattainment area classified as extreme for the 1997 and 2008 8-hour standard, so Rules 4307 and 4308 must implement RACT.

Generally, SIP rules must implement Reasonably Available Control Measures (RACM), including RACT, in $PM_{2.5}$ nonattainment areas. As noted earlier, SJVUAPCD regulates a $PM_{2.5}$ nonattainment area, so SJVUAPCD must implement RACM/RACT.

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, RACM, and SIP relaxations. The TSDs have more information on our evaluation.

C. EPA Recommendations to Further Improve the Rules

The TSDs describe additional rule revisions that we recommend for the next time the local agency modifies the rules but are not currently the basis for rule disapproval.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by March 16, 2015, we will publish a timely withdrawal in the **Federal Register** to notify the public

that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on April 13, 2015. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 13, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 29, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(441) (i)(D)(*3*) and (c)(447)(i)(B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(441) * * *

(i) * * *

(D) * * *

(*3*) Rule 4308, ''Boilers, Steam Generators, and Process Heaters—0.075 MMBtu/hr to less than 2.0 MMBtu/hr,'' amended on November 14, 2013.

* * * * *

(447) * * *

(i) * * *

(B) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 4307, ''Boilers, Steam Generators, and Process Heaters—2.0 MMBtu/hr to 5.0 MMBtu/hr,'' amended on May 19, 2011.

* * * * *

[FR Doc. 2015–02854 Filed 2–11–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AS123–NBK; FRL–9922–86–Region 9]

Approval and Promulgation of Implementation Plans; American Samoa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: The Environmental Protection Agency (EPA) is completing the process begun in 2005 to revise the format of the ''identification of plan'' section for the American Samoa State Implementation Plan (SIP). Specifically, the EPA is adding the nonregulatory provisions and quasi-regulatory measures to the revised ''identification of plan'' section. The nonregulatory provisions and quasi-regulatory measures affected by this format revision have been previously submitted by the Territory of American Samoa and approved by the EPA.

DATES: This rule is effective on February 12, 2015.

ADDRESSES: Nonregulatory and quasi-regulatory SIP materials are available for inspection at Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, 94105–3901 and online at EPA Region IX's Web site.

FOR FURTHER INFORMATION CONTACT: Kevin Gong, Rules Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 972–3073, *gong.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

Table of Contents

I. Background

Under the Clean Air Act (CAA or ''Act''), each state is required to have a state implementation plan (SIP) which contains the control measures and strategies which will be used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms. The control measures and strategies must be formally adopted by each state after the public has had an opportunity to comment on them. They are then submitted to EPA as SIP revisions on which EPA must formally act.

The SIP is a living document which can be revised by the state as necessary to address the unique air pollution problems in the state. Therefore, the EPA from time to time must take action on SIP revisions which may contain new or revised regulations as being part of the SIP. On May 31, 1972 (37 FR 10842), the EPA approved, with certain exceptions, the initial SIPs for 50 states, four territories and the District of Columbia. Since 1972, each state and territory has submitted numerous SIP revisions, either on their own initiative, or because they were required to as a result of various amendments to the CAA. The EPA codifies its approvals and disapprovals of SIPs and SIP revisions in 40 CFR part 52 (''Approval and promulgation of implementation plans'').

Within 40 CFR part 52, there are 58 subparts (subparts A through FFF). Subpart A contains general provisions and certain requirements applicable to all states and territories, while subparts B through DDD and FFF contain requirements that are specific to a given state or territory. Subpart EEE contains historical information pertaining to the EPA's actions on SIP material originally submitted by states to the National Air Pollution Control Administration, Department of Health Education and Welfare in 1970.

Until 1997, the first or second section of each subpart within 40 CFR part 52 (other than subparts A and EEE) was called ''identification of plan.'' On May 22, 1997 (62 FR 27968), EPA established a new format for the ''identification of plan'' sections assigned to each subpart in 40 CFR part 52 (except A and EEE). With the new format, revised ''identification of plan'' sections contain five subsections: (a) Purpose and scope, (b) Incorporation by reference, (c) EPA approved regulations, (d) EPA approved source specific permits, and (e) EPA approved nonregulatory provisions and quasi-regulatory measures. ''Nonregulatory provisions and quasi-regulatory measures'' refers to such items as transportation control measures, certain statutory provisions, control strategies, and monitoring networks. In our May 1997 rule, we indicated that the EPA would begin to phase-in the new format on a state-by-state basis. Please see our May 1997 rule for more information concerning the revised format for SIPs.

The American Samoa SIP is identified in subpart DDD (''American Samoa'') of part 52. As with other State SIPs, the EPA has taken a number of actions since 1972 with respect to the American Samoa SIP. In 2005, we revised the format of the ''identification of plan'' section in subpart DDD in accordance with the revised format described above. See 70 FR 53564 (September 9, 2005). In our 2005 final rule, we did not complete the process of revising the format for the ''identification of plan'' section in that we did not list the nonregulatory provisions and quasi-regulatory measures portion of the American Samoa SIP, but we are doing so in today's action.

II. Public Comments

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) that, upon finding ''good cause,'' authorizes agencies to dispense with public participation; and section 553(d)(3), which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply revises the codification of provisions that are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by clearly identifying the current nonregulatory provisions and quasi-regulatory measures of the American Samoa SIP.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the **SUPPLEMENTARY INFORMATION** (II. Public Comments'') section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 or 204 of UMRA.

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes,

as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not an economically significant regulatory action based on health or safety risks.

This rule does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public internet. Today's action simply reformats the codification of provisions that are already in effect as a matter of law in Federal and approved State programs. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of February 12, 2015. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

The EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the American Samoa SIP compilation had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, the EPA sees no need to reopen the 60-day period for filing such petitions for judicial review for this reformatting of portions of the ''Identification of plan'' section of 40 CFR 52.2820 for American Samoa.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: January 23, 2015.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart DDD—American Samoa

■ 2. Section 52.2820 is amended by adding paragraph (e) to read as follows:

§ 52.2820 Identification of plan.

* * * * *

(e) EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures.

EPA Approved American Samoa Nonregulatory Provisions and Quasi-Regulatory Measures

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Territory of American Samoa Air Pollution Control Implementation Plan				
Section 1. Introduction:				
Introduction	State-wide	01/27/72	05/31/72, 37 FR 10842.	Included as part of the original SIP. See 40 CFR 52.2823(b).
Letter from Donald F. Graf, Executive Secretary, American Samoa Environmental Quality Commission, to Frank Covington, Director, Air and Water Programs Division, EPA Region IX, dated March 23, 1972.	State-wide	03/23/72	05/31/72, 37 FR 10842.	Letter indicating formal adoption of the implementation plan. See 40 CFR 52.2823(c)(2).
Letter from Donald F. Graf, Executive Secretary, American Samoa Environmental Quality Commission, to Paul DeFalco, Regional Administrator, EPA Region IX, dated April 28, 1972.	State-wide	04/28/72	03/02/76, 41 FR 8956.	Letter regarding EPA comments on the plan. See 40 CFR 52.2823(c)(3).
Section 2. Legal Authority:				
Legal Authority	State-wide	01/27/72	05/31/72, 37 FR 10842.	

EPA APPROVED AMERICAN SAMOA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Appendix A. American Samoa Environmental Quality Act, excluding section 35.0113.	State-wide	03/9/72	05/31/72, 37 FR 10842.	Public Law 12–45. Chapter 35.01 of the Code of American Samoa. See 40 CFR 52.2823(c)(1). Section 35.0113 (“Variances”) was deleted without replacement at 62 FR 34641 (June 27, 1997)]. See 40 CFR 52.2823(b)(1).
Section 3. Air Quality Data	State-wide	01/27/72	05/31/72, 37 FR 10842.	Included as part of the original SIP. See 40 CFR 52.2823(b).
Section 4. Emission Inventory	State-wide	01/27/72	05/31/72, 37 FR 10842.	Included as part of the original SIP. See 40 CFR 52.2823(b).
Section 5. Control Strategy:				
Control Strategy	State-wide	01/27/72	05/31/72, 37 FR 10842.	Included as part of the original SIP. See 40 CFR 52.2823(b).
Letter from Peter T. Coleman, Governor, American Samoa, to Kathleen M. Bennett, EPA, dated November 12, 1982.	State-wide	11/12/82	08/14/85, 50 FR 32697.	Negative declaration indicating no Lead sources in American Samoa. See 40 CFR 52.2823(c)(5)(i).
Section 6. Compliance Schedule	State-wide	01/27/72	05/31/72, 37 FR 10842.	Included as part of the original SIP. See 40 CFR 52.2823(b).
Section 7. Air Quality Surveillance Network.	State-wide	01/27/72	05/31/72, 37 FR 10842.	Included as part of the original SIP. See 40 CFR 52.2823(b).
Section 8. Review of New Sources and Modifications.	State-wide	01/27/72	05/31/72, 37 FR 10842.	Included as part of the original SIP. See 40 CFR 52.2823(b).
Section 9. Source Surveillance	State-wide	01/27/72	05/31/72, 37 FR 10842.	Included as part of the original SIP. See 40 CFR 52.2823(b).
Section 10. Resources	State-wide	01/27/72	05/31/72, 37 FR 10842.	Included as part of the original SIP. See 40 CFR 52.2823(b).
Section 11. Intergovernmental Cooperation.	State-wide	01/27/72	05/31/72, 37 FR 10842.	Included as part of the original SIP. See 40 CFR 52.2823(b).

[FR Doc. 2015–02856 Filed 2–11–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 141002820–5113–01]

RIN 0648–XD536

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Adjustments to 2015 Annual Catch Limits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary final rule; adjustment of specifications.

SUMMARY: This action adjusts 2015 annual catch limits for the Atlantic herring fishery to account for the underharvest of herring catch in 2013. The herring fishery caught less than its allocated catch in all herring management areas in 2013. As a result, this action adds unharvested 2013 catch to the 2015 herring catch limits, equal to ten percent of the allocated 2013 annual catch limit for each area. While the annual catch limit for each area increases, the total annual catch limit for the herring fishery will not increase under this action. This will ensure that the carryover pounds do not cause overfishing of the herring resource in 2015. This action is necessary to ensure that NMFS accounts for herring catch consistent with the requirements of the Atlantic Herring Fishery Management Plan.

DATES: Effective February 12, 2015, through December 31, 2015.

ADDRESSES: Copies of supporting documents, including the 2013–2015 Specifications/Framework 2 to the Herring Fishery Management Plan (FMP), are available from the Sustainable Fisheries Division, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930, telephone (978) 281–9315, or online at: *http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/atlherring/index.html.*

FOR FURTHER INFORMATION CONTACT: Travis Ford, Fishery Policy Analyst, 978–281–9233, fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic herring harvest in the United States is managed under the Atlantic Herring Fishery Management Plan (Herring FMP) developed by the New England Fishery Management Council (Council). The Herring FMP divides the stock-wide herring ACL among three management areas, one of which has two sub-areas. It divides Area 1 (located in the Gulf of Maine (GOM)) into an inshore section (Area 1A) and an offshore section (Area 1B). Area 2 is located in the coastal waters between Massachusetts and North Carolina, and Area 3 is on Georges Bank (GB). The Herring FMP considers the herring stock complex to be a single stock, but there are inshore (GOM) and offshore (GB) stock components. The GOM and GB stock components segregate during spawning and mix during feeding and migration. Each management area has its own sub-ACL to allow greater control of the fishing mortality on each stock component.

NMFS issued a final rule that implemented Amendment 4 to the Herring FMP (76 FR 11373, March 2, 2011) to address ACL and accountability measure (AM) requirements. As a way to account for ACL overages in the herring fishery, Amendment 4 established an AM that provided for

overage deductions in the year immediately following the catch overage determination. If the catch of herring exceeds any ACL or sub-ACL, NMFS subsequently deducts the overage from the corresponding ACL/sub-ACL in the year following the catch overage determination. Amendment 4 also specified that NMFS will announce overage deductions in the **Federal Register** prior to the start of the fishing year, if possible.

We also published a final rule implementing Framework 2 to the Herring FMP and the 2013–15 specifications for the herring fishery on October 4, 2013 (78 FR 61828). Among other measures, Framework 2 allows for the carryover of unharvested catch in the year immediately following the catch determination. Up to 10 percent of each sub-ACL may be carried over, provided the stock-wide catch did not exceed the stock-wide ACL. The carryover provision allows a sub-ACL increase for a management area, but it does not allow a corresponding increase to the stock-wide ACL.

For fishing year 2015, the catch limits for the herring fishery, without any adjustments for catch overages or underages, are specified in Table 1. Research set-aside equal to 3 percent of each sub-ACL has been awarded to one research project. The 2015 Adjusted ACL in Table 1 is the catch, excluding carryover, that will be available to the commercial herring fishery in 2015 after removing research set-aside allocation from the 2015 sub-ACLs.

TABLE 1—HERRING SUB-ACLS FOR 2015

[mt]

	2015 ACL	Research set aside (3 percent of sub-ACL)	2015 adjusted ACL
Area 1A	31,200	936	30,264
Area 1B	4,600	138	4,462
Area 2	30,000	900	29,100
Area 3	42,000	1260	40,740
Stock-wide	107,800	3,234 (total of all sub-ACL set-asides)	104,566

Provisions Implemented Through This Final Rule

After completing the 2013 catch determination in October 2014, NMFS determined that the herring fishery caught less than its allocated catch in all herring management areas in 2013. As a result, this action adds unharvested 2013 catch to the 2015 herring catch limits, equal to the amount of the underage (up to ten percent of the allocated 2013 sub-annual catch limit) for each area.

In 2013, the herring fleet underharvested the stockwide ACL and each of the management areas' sub-ACLs. Table 2 provides the harvest details for 2013 and adjustments for 2015.

TABLE 2—HERRING ACLS, CATCH, AND CARRYOVER

[MT]

	2013 ACL	2013 catch	Underage	Carryover (max 10 percent of sub-ACL) *	2015 adjusted ACL (from Table 1)	2015 ACLs adjusted for carryover
Area 1A	29,775	29,454	321	321	30,264	30,585
Area 1B	4,600	2,459	2,141	460	4,462	4,922
Area 2	30,000	26,562	3,438	3,000	29,100	32,100
Area 3	42,000	37,290	4,170	4,170	40,740	44,910
Stock-wide	106,375	95,764	10,611	NA	104,566	** 104,566

* Carryover is based on the initial sub-ACLs: Area 1A, 31,200 mt; Area 1B, 4,600 mt; Area 2, 30,000 mt; and Area 3, 42,000 mt (see Table 1).
** The sum of the 2015 adjusted sub-ACLs does not equal the overall ACL of 104,566 (as adjusted for RSA) because the overall ACL cannot be increased by carryover, as noted above.

NMFS calculated the amount of herring landings in 2013 based on dealer reports (Federal and state) of herring purchases supplemented by vessel trip reports (VTRs) (Federal and State of Maine) of herring landings. We compared dealer reports to VTRs for all trips that landed herring in 2013. Because VTRs are generally a hail weight or estimate of landings, with an assumed 10-percent margin of error, dealer reports are a more accurate source of landings data. However, if the amount of herring reported via VTR exceeded the amount of herring reported by the dealer by 10 percent or more, we assumed that the dealer report for that trip was in error. We used the higher amount of herring reported via VTR to determine the amount of herring landed on that trip to improve the likelihood of not exceeding ACLs. We checked the herring landings in the VTR database for accuracy against the scanned image of the paper VTRs submitted by the owner/operator of the vessel. NMFS also verified VTR landings by comparing reported landings to harvesting potential and applicable possession limits for each vessel.

We assigned herring landings reported on the VTRs to herring management areas using latitude and longitude coordinates. We also manually corrected VTRs with missing or invalid latitude/longitude coordinates using the statistical area reported on the VTR. If the fisherman did not report statistical area on the VTR, then we used a combination of recent fishing activity and a review of the scanned images of the original VTR to assign landings to herring management areas. Finally, we prorated dealer reports without corresponding VTRs to herring management area using

the proportion of total herring landings stratified by week, gear type, and management area.

As we were reviewing the 2013 herring data and comparing individual VTRs with individual dealer reports, we encountered data errors resulting from misreporting. These errors were resolved prior to calculating the final 2013 herring data. Common dealer reporting issues were: Missing dealer reports; incorrect or missing VTR serial numbers; incorrect or missing vessel permit numbers; and incorrect dates. VTRs had similar errors due to misreporting. Common VTR reporting issues were: Missing VTRs; missing or incorrect dealer information; incorrect amounts of landed herring; incorrect dates; and missing or incorrect statistical area. The quality of herring landings data is affected by unresolved data errors; therefore, we strongly encourage vessel owner/operators and dealers to double-check reports for accuracy and to ensure that reports are submitted on a timely basis. We will closely monitor reporting complianc1e in fishing year 2015 and will increase our compliance efforts, including referrals to the Office of Law Enforcement where appropriate.

NMFS determined discards of herring in 2013 by extrapolating Northeast Fisheries Observer Program (observer) data to the entire herring fishery. We divided the amount of observed herring discards (''Atlantic herring'' and ''herring unidentified'') by the amount of observed fish landed. Then we multiplied that discard ratio by the amount of all fish landed for each trip to calculate total amount of herring discards in 2013. We determined the amount of discards for each management area and gear type, and calculated the total herring catch for 2013 by adding the amount of herring landings to the amount of herring discarded. The Council's Herring Plan Development Team reviewed and approved this methodology used by NMFS to calculate the amount of landed herring and the amount of discarded herring.

Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the NMFS Assistant Administrator has determined that this final rule is consistent with the Atlantic Herring FMP, other provisions of the MSA, and other applicable law.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action. This rule increases the 2015 herring management area catch limits by the amounts that were unharvested in 2013 (up to 10 percent). It thereby relieves a restriction. Further, notice and comment are contrary to the public interest because a delay would potentially impair achievement of the management plan's objectives of preventing overfishing and achieving optimum yield due to vessels' ability to harvest available catch allocations. Further, this is a nondiscretionary action required by provisions of Amendment 4 and Framework 2, which were previously subject to public comment. This action simply effectuates this mandatory calculation. The proposed and final rules for Framework 2 and Amendment 4 explained the need and likelihood for adjustments to the sub-ACLs based on final catch numbers. Framework 2, specifically, provided prior notice of the need to distribute carryover catch. These actions provided a full opportunity for the public to comment on the substance and process of this action.

Allowing for prior notice and public comment on this adjustment is impracticable because the Atlantic herring fishing year already began on January 1, 2015. It is important for the herring fleet to have as much advance notice as possible to aid in developing their business plans for the remainder of the fishing year (January 1, 2015 through December 31, 2015). The opportunity to plan is expected to facilitate the fleet's harvesting of available catch, thereby achieving optimum yield. Two areas are currently closed and will open on May 1 and June 1, respectively. Management Area 3 is already open and subject to a lower catch limit until this action is implemented. Putting in place the correct sub-ACLs as soon as possible will provide the fleet with this opportunity to develop their business plans in sufficient time to facilitate their harvest of available catch.

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make the rule effective upon publication in the **Federal Register**. The 2015 herring fishing year began on January 1, 2015. To prevent confusion and finalize the structure of the 2015 fishing year, it is necessary to have the proper sub-ACLs in place as soon as possible. In addition, having the updated sub-ACLs in place will allow the herring fleet to develop accurate business plan for the remainder of fishing year. Accordingly, any delay in the rule's effectiveness would be contrary to the conservation objectives of the MSA and the Herring FMP.

This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are inapplicable.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 9, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2015–02941 Filed 2–11–15; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 29
Thursday, February 12, 2015

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1206

[Document Number AMS–FV–14–0086]

Mango Promotion, Research and Information Order; Continuance Referendum

AGENCY: Agricultural Marketing Service.

ACTION: Referendum Order.

SUMMARY: This document directs that a referendum be conducted among eligible first handlers and importers of mangos to determine whether they favor continuance of the Mango Promotion, Research and Information Order (Order).

DATES: This referendum will be conducted by mail ballot from April 6 through April 17, 2015. First handlers receiving 500,000 or more pounds of mangos from producers and importers importing 500,000 or more pounds of mangos into the United States, during the representative period from January 1 through December 31, 2014, are eligible to vote. Ballots must be received by the close of business on April 17, 2015, to be counted.

ADDRESSES: Copies of the Order may be obtained from: Referendum Agent, Promotion and Economics Division (PED), Fruit and Vegetable Program (FVP), AMS, USDA, Stop 0244, Room 1406–S, 1400 Independence Avenue SW., Washington, DC 20250–0244; telephone: (202) 720–9915, (202) 720–5976 (direct line); facsimile: (202) 205–2800.

FOR FURTHER INFORMATION CONTACT: Jeanette Palmer, Marketing Specialist, PED, FVP, AMS, USDA, Stop 0244, Room 1406–S, 1400 Independence Avenue SW., Washington, DC 20250–0244; telephone: (202) 720–9915, (202) 720–5976 (direct line); facsimile: (202) 205–2800; or electronic mail: *Jeanette.Palmer@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Commodity Promotion, Research and Information Act of 1996 (7 U.S.C. 7411–7425) (Act), it is hereby directed that a referendum be conducted to ascertain whether continuance of the Order is favored by eligible first handlers and importers of mangos covered under the program. The Order is authorized under the Act.

The representative period for establishing voter eligibility for the referendum shall be the period from January 1 through December 31, 2014. First handlers receiving 500,000 or more pounds of mangos from producers and importers importing 500,000 or more pounds of mangos into the United States during the representative period are eligible to vote. Persons who received an exemption from assessments for the entire representative period are ineligible to vote. The referendum shall be conducted by mail ballot from April 6 through April 17, 2015.

Section 518 of the Act authorizes continuance referenda. Under section 1206.71(b) of the Order, the U.S. Department of Agriculture (Department) shall conduct a referendum every five years or when 10 percent or more of the eligible voters petition the Secretary of Agriculture to hold a referendum to determine if persons subject to assessment favor continuance of the Order. The Department would continue the Order if approved by a majority of the first handlers and importers voting in the referendum.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the referendum ballot has been approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0093. It has been estimated that there are approximately five first handlers and 120 importers who will be eligible to vote in the referendum. It will take an average of 15 minutes for each voter to read the voting instructions and complete the referendum ballot.

Referendum Order

Jeanette Palmer and Heather Pichelman, PED, FVP, AMS, USDA, Stop 0244, Room 1406–S, 1400 Independence Avenue SW., Washington, DC 20250–0244, are designated as the referendum agents to conduct this referendum. The referendum procedures at 7 CFR 1206.100 through 1206.108, which were issued pursuant to the Act, shall be used to conduct the referendum.

The referendum agents will mail the ballots to be cast in the referendum and voting instructions to all known first handlers receiving 500,000 or more pounds of mangos from producers and importers importing 500,000 or more pounds of mangos into the United States during the representative period, prior to the first day of the voting period. Persons who are eligible first handlers or importers during the representative period and are first handlers or importers at the time of the referendum are eligible to vote. Persons who received an exemption from assessments during the entire representative period are ineligible to vote. Any eligible first handler or importer who does not receive a ballot should contact a referendum agent no later than one week before the end of the voting period. Ballots must be received by a referendum agent, not later than close of business 4:30 p.m. Eastern time, April 17, 2015, in order to be counted.

List of Subjects in 7 CFR Part 1206

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Mango promotion, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 7411–7425 and 7 U.S.C. 7401.

Dated: February 6, 2015.

Rex A. Barnes,

Associate Administrator.

[FR Doc. 2015–02899 Filed 2–11–15; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1212

[Document Number AMS–FV–14–0097]

Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order; Continuance Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among eligible first handlers and importers of honey or honey products to determine

whether they favor continuance of the Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order (Order).

DATES: This referendum will be conducted from April 13 through April 24, 2015. To vote in this referendum, first handlers and importers must have handled or imported 250,000 or more pounds of honey or honey products during the representative period from January 1 through December 31, 2014, paid assessments during the representative period, and must currently be a first handler or importer of honey or honey products subject to assessments. Ballots must be received by the close of business on April 24, 2015, to be counted.

ADDRESSES: Copies of the Order may be obtained from: Referendum Agent, Promotion and Economics Division (PED), Fruit and Vegetable Program (FVP), AMS, USDA, Stop 0244, Room 1406–S, 1400 Independence Avenue SW., Washington, DC 20250–0244, telephone: (202) 720–9915, facsimile: (202) 205–2800.

FOR FURTHER INFORMATION CONTACT: Patricia Petrella, Marketing Specialist, PED, FVP, AMS, USDA, STOP 0244, Room 1406–S, 1400 Independence Avenue SW., Washington, DC 20250–0244; telephone: (202) 720–9915; facsimile: (202) 205–2800; or electronic mail: *patricia.petrella@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Commodity Promotion, Research and Information Act of 1996 (7 U.S.C. 7411–7425) (Act), it is hereby directed that a referendum be conducted to ascertain whether continuance of the Order is favored by eligible first handlers and importers of honey or honey products covered under the program. The Order is authorized under the Act.

The representative period for establishing voter eligibility for the referendum shall be the period from January 1, 2014, to December 31, 2014. First handlers and importers of 250,000 or more pounds of honey or honey products who have paid assessments during the representative period and are currently first handlers and importers subject to assessments are eligible to vote. Persons who received an exemption from assessments for the entire representative period are ineligible to vote. The referendum shall be conducted by mail ballot from April 13, 2015 through April 24, 2015.

Section 518 of the Act authorizes continuance referenda. Under section 1212.81 of the Order, the U.S. Department of Agriculture (Department) shall conduct a referendum every seven years, at the request of the Board established in the Order, or when 10 percent or more of the eligible voters petition the Secretary of Agriculture to hold a referendum to determine if persons subject to assessment favor continuance of the Order. The Department would continue the Order if continuance of the Order is favored by a majority of the first handlers and importers voting in the referendum and a majority of volume voted in the referendum.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the referendum ballot has been approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0093. It has been estimated that there are approximately 40 first handlers and 660 importers who will be eligible to vote in the referendum. It will take an average of 15 minutes for each voter to read the voting instructions and complete the referendum ballot.

Referendum Order

Patricia Petrella and Heather Pichelman, PED, FVP, AMS, USDA, Stop 0244, Room 1406–S, 1400 Independence Avenue SW., Washington, DC 20250–0244, are designated as the referendum agents to conduct this referendum. The referendum procedures at 7 CFR 1212.100 through 1212.108, which were issued pursuant to the Act, shall be used to conduct the referendum.

The referendum agents will mail the ballots to be cast in the referendum and voting instructions to all known first handlers and importers of 250,000 or more pounds of honey or honey products in the 2014 calendar year, prior to the first day of the voting period. Persons who are eligible first handlers or importers during the representative period and are first handlers or importers at the time of the referendum are eligible to vote. Persons who received an exemption from assessments during the entire representative period are ineligible to vote. Any eligible first handler or importer who does not receive a ballot should contact a referendum agent no later than one week before the end of the voting period. Ballots must be received by a referendum agent, not later than close of business 4:30 p.m. Eastern time, April 24, 2015, in order to be counted.

List of Subjects in 7 CFR Part 1212

Administrative practice and procedure, Advertising, Consumer information, Honey Packers and Importer promotion, Marketing agreements, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 7411–7425 and 7 U.S.C. 7401.

Dated: February 6, 2015.

Rex A. Barnes,

Associate Administrator.

[FR Doc. 2015–02901 Filed 2–11–15; 8:45 am]

BILLING CODE 3410–02–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1192

[Docket No. ATBCB–2013–0001]

RIN 3014–AA42

Rail Vehicles Access Advisory Committee

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of advisory committee meeting.

SUMMARY: On May 23, 2013, we, the Architectural and Transportation Barriers Compliance Board (Access Board), established the Rail Vehicles Access Advisory Committee (Committee) to advise us on revising and updating our accessibility guidelines issued pursuant to the Americans with Disabilities Act for transportation vehicles that operate on fixed guideway systems (*e.g.,* rapid rail, light rail, commuter rail, intercity rail, and high speed rail). The Committee will hold its fifth meeting on the following dates and times.

DATES: The Committee will meet on February 26, 2015, from 10:00 a.m. to 5:00 p.m. and on February 27, 2015, from 9:30 a.m. to 3:00 p.m.

ADDRESSES: The meeting will be held at the Access Board Conference Room, 1331 F Street NW., Suite 800, Washington, DC 20004–1111. Call-in information and a communication access real-time translation (CART) web streaming link will be posted on the Access Board's Rail Vehicles Access Advisory Committee Web site page at *www.access-board.gov/rvaac.*

FOR FURTHER INFORMATION CONTACT: Paul Beatty, Office of Technical and Information Services, Access Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–0012 (Voice); (202) 272–0072 (TTY). Electronic mail address: *rvaac@access-board.gov.*

SUPPLEMENTARY INFORMATION: On May 23, 2013, we published a notice announcing that we were establishing a Rail Vehicles Access Advisory Committee (Committee) to make recommendations to us on matters associated with revising and updating our accessibility guidelines issued pursuant to the Americans with Disabilities Act for transportation vehicles that operate on fixed guideway systems (*e.g.,* rapid rail, light rail, commuter rail, intercity rail, and high speed rail). See 78 FR 30828 (May 23, 2013).

The Committee will hold its fifth meeting on February 26, 2015, from 10:00 a.m. to 5:00 p.m. and on February 27, 2015, from 9:30 a.m. to 3:00 p.m. The preliminary agenda for the February meeting includes: Deliberation of committee member concerns pertaining to the accessibility of rail vehicles; consideration of process-related matters; and possible subcommittee meetings. Subcommittee meetings will occur in the same meeting room as the Committee meeting. The preliminary meeting agenda, along with information about the Committee, is available on our Web site (*www.access-board.gov/rvaac*).

The Committee meeting and subcommittee meetings will be open to the public and interested persons can attend the meetings and communicate their views. Members of the public will have opportunities to address the Committee on issues of interest to them during a public comment period scheduled each day the full committee meets. Members of groups or individuals who are not members of the Committee also have the opportunity to participate in subcommittees.

The meetings will be accessible to persons with disabilities. An assistive listening system, communication access real-time translation (CART), and sign language interpreters will be provided. Persons attending the meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants (see *www.access-board.gov/the-board/policies/fragrance-free-environment* for more information).

Persons wishing to provide handouts or other written information to the Committee are requested to provide electronic formats to Paul Beatty via email at least five business days prior to the meetings so that alternate formats can be distributed to Committee members.

David M. Capozzi,

Executive Director.

[FR Doc. 2015–02888 Filed 2–11–15; 8:45 am]

BILLING CODE 8150–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0863; FRL–9921–50–Region 9]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern criteria air pollutants, including oxides of nitrogen (NO_X) and particulate matter (PM) emissions from boilers, steam generators, and process heaters. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: Any comments on this proposal must arrive by March 16, 2015.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0863, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.*
2. Follow the on-line instructions.
3. *Email: steckel.andrew@epa.gov.*
4. *Mail or deliver:* Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material, large maps), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, (415) 947–4126, *law.nicole@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: SJVUAPCD 4307 Boilers, Steam Generators, and Process Heaters—2.0 MMBtu/hr to 5.0 MMBtu/hr and SJVUAPCD 4308 Boilers, Steam Generators, and Process Heaters—0.075 MMBtu/hr to less than 2.0 MMBtu/hr. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: December 29, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2015–02855 Filed 2–11–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Chapter III

[Docket No. FMCSA–2007–27748]

Minimum Training Requirements for Entry-Level Drivers of Commercial Motor Vehicles: Negotiated Rulemaking Committee Membership and First Meeting

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of advisory committee membership and public meeting.

SUMMARY: FMCSA announces the appointment of members to the Entry-Level Driver Training Advisory Committee (ELDTAC) established to complete a negotiated rulemaking on Entry-Level Driver Training (ELDT) for individuals who want to operate Commercial Motor Vehicles (CMVs). ELDTAC is a negotiated rulemaking committee established to develop a Notice of Proposed Rulemaking (NPRM) to implement section 32304 of the Moving Ahead for Progress in the 21st Century (MAP–21) concerning ELDT standards for individuals applying for a commercial driver's license (CDL) or CDL upgrade. Additionally, the Agency announces that the first meeting of the ELDTAC will be held on February 26 and 27, 2015. The meeting is open to the public for its entirety and there will be a public comment period at the end of each day.

DATES: The meeting will be held Thursday–Friday, February 26–27, 2015, from 9 a.m. to 4:30 p.m., Eastern Daylight Time (E.T.), at the Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202, (703) 418–1234, in the Tidewater room on the Ballroom level. Copies of all ELDTAC materials and an agenda will be made available in advance of the meeting at *http://www.fmcsa.dot.gov/eldtac.*

FOR FURTHER INFORMATION CONTACT: Ms. Shannon L. Watson, Senior Policy Advisor, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–2551, *eldtac@dot.gov.*

Services for Individuals with Disabilities:

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Eran Segev at (617) 494–3174, *eran.segev@dot.gov,* by Wednesday, February 18.

SUPPLEMENTARY INFORMATION:

I. Background

Entry-Level Driver Training

Section 32304 of the Moving Ahead for Progress in the 21st Century (MAP–21) (Pub. L. 112–141, 126 Stat. 405 (July 6, 2012)) requires FMCSA to establish new regulations concerning ELDT. MAP–21 requires ''that the training regulations address knowledge and skills for motor vehicle operation, specific requirements for hazmat and passenger endorsements, create a certificate system for meeting requirements, and require training providers to demonstrate that their training meets uniform standards.'' The new requirements would apply to individuals seeking a CDL to operate CMVs, as defined in 49 CFR 383.5.

On August 19, 2014 (79 FR 49044), FMCSA announced that the Agency would explore the feasibility of conducting a negotiated rulemaking concerning entry-level driver training for drivers of CMVs. The Agency announced the hiring of a convener to speak with interested parties about the feasibility of conducting an ELDT negotiated rulemaking and requested public comments by September 18, 2014. As part of the first step in this process, the convener conducted these interviews and submitted a report to the Agency on November 26, 2014, regarding the feasibility of conducting a negotiated rulemaking. The convening report is available both in the rulemaking docket at FMCSA–2007–27748 and on the Internet at *eldtac.fmcsa.dot.gov.*

On December 10, 2014 (79 FR 73273), FMCSA announced its intent to establish a negotiated rulemaking committee to negotiate and develop proposed regulations to implement the MAP–21 provision concerning ELDT based on the recommendations of the convener.

ELDTAC

The ELDTAC is established by charter in accordance with the Federal Advisory committee Act (FACA), 5 U.S.C., App. 2. Transportation Secretary Anthony Foxx signed the ELDTAC charter on January 15, 2015, which provides up to 2 years for the Committee's duration, in accordance with section 14 of FACA. Additionally, as the ELDTAC is a negotiated rulemaking committee (''Reg Neg''), it complies with the Negotiated Rulemaking Act (5 U.S.C. 564). The Committee is effective from the date of signature through January 15, 2017. The Agency announced in the **Federal Register** on December 10, 2014 its intention to establish a negotiated rulemaking committee to negotiate and develop proposed regulations on entry-level driver training, as recommended by the neutral convener, Mr. Richard Parker, in his report to FMCSA on the feasibility of such a rulemaking. Mr. Parker, a professor of law at the University of Connecticut School of Law and a contractor for Strategic Consulting Alliances, LLC, will serve as the facilitator for the ELDTAC. The convening report is available in the rulemaking docket at FMCSA–2007–27748 and on the Internet at *www.fmcsa.dot.gov/eldtac.*

ELDTAC Membership

In its December 10, 2014, **Federal Register** notice, the Agency announced that it was soliciting applications and nominations for membership on the ELDTAC. These members are experts in their respective fields and appointed as Special Government employees or representatives of entities or interests including but not limited to the following: CMV driver training organizations; industry representatives; representatives of driver training schools; motor carriers (of property and passengers) and associations; State licensing agencies; State enforcement agencies; labor unions; safety advocacy groups; insurance companies; and others selected with a view toward achieving varied perspectives on ELDT. In an effort to balance these interests to the extent practicable, the FMCSA Acting Administrator hereby appoints the following members, who will each serve for up to one two-year term:

- Larry W. Minor, Associate Administrator for Policy, FMCSA
- Peter Kurdock, Director, Regulatory Affairs, Advocates for Highway and Auto Safety
- Kevin Lewis, Director, Driver Programs, American Association of Motor Vehicle Administrators
- Clyde Hart, Vice President, Government Affairs, American Bus Association
- Lauren Samet, Assistant Director, Paraprofessional and School-Related Personnel, American Federation of Teachers, AFL–CIO
- Ed Watt, Director, Special Projects, Amalgamated Transit Union, AFL–CIO
- Boyd Stephenson, Director, Hazardous Materials and Commercial Licensing Policy, American Trucking Associations
- Ron Wood, Washington, DC, Volunteer Coordinator, Citizens for Reliable and Safe Highways

- Bob Tershak, Master Trooper, Virginia State Police, Commercial Vehicle Safety Alliance
- Carl Spatocco, Regional Vice President, Educational Affiliates, Commercial Vehicle Training Association
- David R. Parker, Senior Legal Counsel, Great West Casualty Company
- Al Smith, Director, Safety and Security, Greyhound Lines, Inc.
- LaMont Byrd, Director, Health and Safety, International Brotherhood of Teamsters
- Margaret Rohanna, School Bus Program Manager, Massachusetts Registry of Motor Vehicle Division, Massachusetts Department of Transportation
- Martin Garsee, President, National Association of Publicly Funded Truck Driving Schools
- Jim Edwards, Washington Representative, National Association of Small Trucking Companies
- Charlie Hood, President, National Association of State Directors of Pupil Transportation Services
- Bob Ramsdell, Chief Operating Officer, West, Durham School Services, National School Transportation Association
- Scott Grenerth, Director, Regulatory Affairs, Owner-Operator Independent Drivers Association
- David Money, Chairman, Board of Directors, Professional Truck Drivers Institute
- Louis Spoonhour, Senior Advisor for CDL Programs, Stevens Transport
- Bryan Spoon, Owner-Operator, Spoon Trucking
- David Heller, Director, Safety and Policy, Truckload Carriers Association
- John Lannen, Executive Director, Truck Safety Coalition
- Ken Presley, Vice President, Industry Operations, and Chief Operating Officer, United Motorcoach Association
- Ellen Voie, President and CEO, Women in Trucking

II. Meeting Participation

Oral comments from the public will be heard during the last half-hour of the meetings each day. Should all public comments be exhausted prior to the end of the specified period, the comment period will close.

III. Submitting Written Comments

Members of the public may submit written comments on the topics to be considered during the meeting by Wednesday, February 18, to Federal Docket Management System (FDMC) Docket Number FMCSA–2007–27748. If you submit a comment, please include the docket number for this notice (FMCSA–2007–27748). You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–2007–27748, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2007–27748, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

IV. Future Committee Meetings and Rulemaking Calendar

Decisions with respect to future meetings will be made at the first meeting and from time to time thereafter. Notices of all future meetings will be published in the **Federal Register** at least 15 calendar days prior to each meeting. In coordination with the Reg Neg facilitator, FMCSA has developed a provisional schedule of committee meetings, running through May 2015, which the facilitator plans to finalize with the committee during the first meeting.

FMCSA intends to complete the Reg Neg process for the proposed rule within the first half of 2015 and to publish a Notice of Proposed Rulemaking (NPRM) this year, followed by a Final Rule in 2016. After the conclusion of the committee meetings, the Agency will draft the NPRM, which is expected to take approximately 6–8 weeks, depending on the degree of consensus on the issues and the supporting data developed by the committee. The NPRM will then be reviewed by DOT's Office of the Secretary and the Office of Management and Budget (OMB). The Agency will then publish the NPRM for public comment.

Following the close of the public comment period the Agency will evaluate and respond to public comments as it drafts a final rule, which will also undergo Departmental and OMB review. Although the time needed to address public comments to an NPRM that has been developed through a successful negotiated rulemaking process is typically shorter than for rules conducted through the ordinary informal notice and comment process, the Agency must nonetheless address substantive public comments in the final rule, in accordance with the Administrative Procedure Act. While the Agency cannot state with certainty the time required to complete the Reg Neg process and notice and comment rulemaking, the target date for publication of an NPRM is October 15, 2015.

Issued on: February 9, 2015.

T.F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2015–02967 Filed 2–10–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

RIN 0648–XD682

Fisheries of the Exclusive Economic Zone Off Alaska; Small Vessel Exemptions; License Limitation Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of availability of fishery management plan amendments; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted to the Secretary of Commerce (Secretary) Amendment 108 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP), Amendment 100 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP), and Amendment 46 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP). If approved, these amendments would correct text omissions in the BSAI FMP, the GOA FMP, and the Crab FMP. These amendments would make the fishery management plan (FMP) texts that establish vessel length limits for small vessels exempted from the license limitation program (LLP) in the Bering Sea and Aleutian Islands Management Area (BSAI) groundfish and king and Tanner crab fisheries, and the Gulf of Alaska (GOA) groundfish fisheries, consistent with the original intent of the LLP, current operations in the fisheries, and Federal regulations. This action would promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMPs, and other applicable laws.

DATES: Submit comments on Amendment 108 to the BSAI FMP, Amendment 100 to the GOA FMP, and Amendment 46 to the Crab FMP on or before *April 13, 2015.*

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2015–0161, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0161,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All Personal Identifying Information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields, if you wish to remain anonymous).

Electronic copies of Amendment 108 to the BSAI FMP, Amendment 100 to the GOA FMP, Amendment 46 to the Crab FMP, and the analysis prepared for this action are available from the Alaska Region NMFS Web site at *http://www.alaskafisheries.noaa.gov/regs/summary.htm.*

FOR FURTHER INFORMATION CONTACT: Seanbob Kelly, 907–271–5195.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit proposed amendments to a fishery management plan to the Secretary for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that, upon receiving an FMP amendment, the Secretary immediately publish in the **Federal Register** a notice that the amendment is available for public review and comment. This notice announces that proposed Amendment 108 to the BSAI FMP, Amendment 100 to the GOA FMP, and Amendment 46 to the Crab FMP are available for public review and comment. No changes to Federal regulations would be necessary to implement the proposed amendments.

Amendment 108 to the BSAI FMP, Amendment 100 to the GOA FMP, and Amendment 46 to the Crab FMP were adopted by the Council on December 15, 2014. If approved by the Secretary, the FMP amendments would modify the following sections: Amendment 108 would amend Table ES–2 and Section 3.3.1 of the BSAI FMP; Amendment 100 would amend Table ES–2 and Section 3.3.1 of the GOA FMP; and Amendment 46 would amend Section 8.1.4.2 of the Crab FMP.

Background

In 1998, the Secretary implemented the LLP to place an upper limit on the number of vessels that could be deployed in the crab and groundfish (other than sablefish) fisheries off Alaska. The LLP was originally intended to address concerns that the harvesting fleet had expanded beyond the size necessary to harvest efficiently the optimum yield of the fisheries off Alaska. The LLP established several exemptions to the requirement that a vessel be named on an LLP license, including an exemption for small vessels. The LLP was established by Amendment 39 to the BSAI FMP, Amendment 41 to the GOA FMP, and Amendment 5 to the Crab FMP, which were implemented by NMFS on October 1, 1998 (63 FR 52642). Additional information about the LLP can be found in the preamble to the proposed rule for these amendments (62 FR 43866, August 15, 1997).

The Council and the Secretary intended that the LLP would retain the vessel length limits that were established for the small vessel exemption from the vessel moratorium program (60 FR 40763; August 10, 1995) as an exemption from the LLP; however, the vessel length limits for the small vessel exemption that were included in the FMPs do not mirror the vessel moratorium small vessel exemption. The current FMP texts do not carry out the Council's and the Secretary's intent that vessels that were exempted from the moratorium also would be exempt from the LLP and are not consistent with the Federal regulations that implement the LLP. The FMP text authorizing the LLP modified the GOA FMP text from ''vessels 26 ft or less LOA'' to ''vessels less than 26 ft LOA,'' modified the Crab FMP text from ''vessels 32 ft or less LOA'' to vessels ''< 32''' and modified the BSAI FMP text from ''vessels 32 ft or less LOA'' to ''vessels less than 32 ft LOA''. The revised FMP texts omit vessels that are exactly 26 ft (7.9 m) LOA or 32 ft (9.8 m) LOA. The omitted text is necessary for consistency with Federal regulations that exempt from the LLP vessels that do ''not exceed 26 ft (7.9 m) LOA'' in the GOA and vessels that do ''not exceed 32 ft (9.8 m) LOA'' in the BSAI; the Crab FMP only applies to the BSAI. Additional information can be found in the analysis prepared for this action (See **ADDRESSES**).

If approved by the Secretary, proposed Amendment 108 to the BSAI FMP, proposed Amendment 100 to the GOA FMP, and proposed Amendment 46 to the Crab FMP would correct the omissions in each FMP by adding ''or equal to'' to the length limits. Specifically, these FMP amendments would add vessels 26 ft (7.9 m) LOA in the GOA and vessels 32 ft (9.8 m) LOA in the BSAI, including BSAI Crab, to the LLP exemption. Since the implementation of the LLP, fisheries in the BSAI and GOA have been conducted according to Federal regulations and not the FMP texts; therefore, there would be no impact to license holders and no change to fishing behavior or fisheries management in the U.S. Exclusive Economic Zone off Alaska if these amendments are approved. These amendments are necessary to make the three FMPs consistent with the original intent of the Council and Secretary, current operations in the fisheries, and Federal regulations. The inconsistencies among FMP text, regulatory text, and Council and Secretarial intent were not identified until August 2014.

Public comments are being solicited on the proposed FMP amendments and must be received by the end of the comment period (see DATES) on Amendment 108 to the BSAI FMP, Amendment 100 to the GOA FMP, and Amendment 46 to the Crab FMP to be considered in the approval/disapproval decision on each amendment. All comments received by the end of the comment period will be considered in the approval/disapproval decision on the amendments. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the end of the comment period.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 6, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2015–02890 Filed 2–11–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

[Docket No. 130820737–5111–01]

RIN 0648–BD61

Fisheries of the Exclusive Economic Zone off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program; Amendment 45; Pacific Cod Sideboard Allocations in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would implement Amendment 45 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP). If approved, Amendment 45 would establish, for a limited period of time, a process for NMFS to permanently remove Pacific cod catch limits, known as sideboard limits, which are applicable to certain hook-and-line catcher/processors in the Central and Western Gulf of Alaska (GOA) Regulatory Areas. This action would authorize NMFS to remove these Pacific cod sideboard limits in the Central and/or Western GOA if all eligible participants in the hook-and-line catcher/processor sector in a regulatory area sign and submit a request that NMFS remove the sideboard limit. Each eligible participant would be required to submit the request to NMFS within 1 year of the date of publication of a final rule implementing Amendment 45, if it is approved by the Secretary of Commerce (Secretary). This action is necessary to provide participants in the Central and Western GOA hook-and-line catcher/processor sectors with an opportunity to cooperatively coordinate harvests of Pacific cod through private arrangement to the participants' mutual benefit, which would remove the need for sideboard limits in these regulatory areas. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Crab FMP, and other applicable laws.

DATES: Submit comments on or before March 16, 2015.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2013-0133, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0133,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the following documents may be obtained from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov:*

- The Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA), and the Categorical Exclusion prepared for this action (collectively referred to as the ''Analysis'');
- The Harvest Specifications Supplemental Information Report (SIR) prepared for the final 2014 and 2015 harvest specifications;
- The Final Environmental Assessment/Final RIR/Initial IRFA for Amendment 83 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) Allocation of Pacific cod Among Sectors in the Western and Central GOA; and
- The Alaska Groundfish Harvest Specifications Final Environmental Impact Statement (Harvest Specifications EIS).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this action may be submitted to NMFS at the above address and by email to *OIRA_*

Submission@omb.eop.gov or fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Seanbob Kelly, 907–586–7228.

SUPPLEMENTARY INFORMATION: MFS proposes regulations to implement Amendment 45 to the Crab FMP. The king and Tanner crab fisheries in the exclusive economic zone (EEZ) of the Bering Sea and Aleutian Islands are managed under the Crab FMP. While the groundfish fisheries in the EEZ of the Gulf of Alaska are managed primarily under the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP), some aspects of groundfish fishing in the Gulf of Alaska are managed under the Crab FMP. The Council prepared each fishery management plan pursuant to the Magnuson-Stevens Act and other applicable laws. Regulations implementing the Crab FMP appear at 50 CFR part 680. Regulations implementing the GOA FMP appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

This proposed action would establish, for a limited period of time, a regulatory process for NMFS to permanently remove Pacific cod catch limits, known as sideboard limits, that are applicable to some participants in the Central GOA Regulatory Area (Central GOA) and Western GOA Regulatory Area (Western GOA) hook-and-line catcher/processor sectors. This proposed rule would modify regulations at 50 CFR 680.22(e) that currently require NMFS to establish Pacific cod sideboard limits for hook-and-line catcher/processors during the annual harvest specification process. Under this proposed rule, NMFS would not establish these sideboard limits for the Central or Western GOA if all participants eligible to use a hook-and-line catcher/processor to fish for Pacific cod in the regulatory area sign and submit to NMFS a request that NMFS remove the sideboard limit for that regulatory area. Each eligible participant would be required to submit that request to NMFS within 1 year of the date of publication of a final rule implementing Amendment 45, if approved by the Secretary. Each eligible participant in the Central and/or Western GOA must sign an affidavit, included on a form, to request that NMFS no longer establish Pacific cod sideboard limits for the hook-and-line catcher/processor sector in the Central and/or Western GOA. If NMFS receives the required affidavits within the time provided, NMFS would announce the permanent removal of the Central and/or Western GOA sideboard limits during the annual GOA groundfish specification process and would no longer establish Pacific cod sideboard limits for the hook-and-line catcher/processor sector in the Central and/or Western GOA. If NMFS does not receive the required affidavits within the time provided, NMFS would continue to establish GOA Pacific cod sideboard limits for the hook-and-line catcher/processor sectors through the annual GOA groundfish specification process.

To understand the proposed action, the following sections of the preamble describe: (1) General management of Pacific cod in the Central and Western GOA; (2) GOA Pacific cod sideboard limits established under the Bering Sea and Aleutian Islands Management Area (BSAI) Crab Rationalization Program; (3) recent allocations of Pacific cod in the GOA; (4) the effect of Pacific cod sideboard limits on hook-and-line catcher/processors in the Central and Western GOA; and (5) the proposed action.

General Management of Pacific Cod in the Central and Western GOA

NMFS implements conservation and management measures, such as catch limits, to prevent overfishing while achieving the optimum yield in federally managed fisheries. Catch limits for GOA Pacific cod are established as part of the annual harvest specifications process for GOA groundfish. A detailed description of the annual harvest specification process is provided in the Harvest Specifications EIS (see **ADDRESSES**), the Harvest Specifications SIR (see **ADDRESSES**), and the final 2014 and 2015 harvest specifications for groundfish of the GOA (79 FR 12890, March 6, 2014).

Regulations at § 679.20(a) require that the North Pacific Fishery Management Council (Council) annually recommend, and NMFS specify, an amount of catch at which overfishing is occurring (*i.e.,* overfishing level or OFL), an acceptable biological catch (ABC), and a total allowable catch (TAC) for each stock or stock complex (*i.e.,* species or species group). NMFS defines the ABC as the level of a species or species group's annual catch that accounts for the scientific uncertainty in the estimate of OFL and any other scientific uncertainty. The ABC is always set below the OFL. The TAC is defined as the annual catch target for a species or species group that is derived from the ABC after considering social and economic factors and management uncertainty. Separate TACs are calculated using the apportionment of TAC for specific regulatory areas to limit catch and ensure that fisheries can be effectively managed. Similarly, sideboard limits are calculated as a portion of the TACs for some groundfish species and established in the annual harvest specifications. Sideboard limits constrain harvests by specific vessels based on regulatory requirements established under various management programs.

Specific to this proposed action, the Council recommends, and NMFS implements an OFL and ABC for Pacific cod in the GOA, and separate TACs for the Eastern, Central, and Western GOA Pacific cod fisheries. NMFS limits harvest by vessels participating in the Pacific cod fisheries to these TACs to provide for a conservatively managed sustainable yield throughout the GOA. Once the TACs have been established, NMFS apportions each TAC among various gear types (*e.g.,* pot or trawl gear), operation types (*e.g.,* catcher vessels and catcher/processors), and sectors (*e.g.,* hook-and-line catcher/processors) as required by regulation (see regulations at § 679.20(a)). Based on the regulatory area TACs for Eastern, Central, and Western GOA, as divided by the A season and B season, NMFS establishes sideboard limits for Pacific cod, as required by regulations (for example, see regulations at § 680.22(a) and (d)). The resulting sideboard limits, expressed in metric tons, are published in the annual GOA groundfish harvest specification notices (for the most recent example, see 79 FR 12890, March 6, 2014). As described in more detail in the following sections of this preamble, NMFS manages vessels subject to Pacific cod sideboard limits to ensure that these limits are not exceeded.

NMFS also manages Pacific cod fisheries through the License Limitation Program (LLP). A vessel is required to be named on an LLP license before it can be deployed to directed fish (*i.e.,* specifically target) for groundfish in Federal fisheries in the GOA. The term ''directed fishing'' is defined in regulation at § 679.2. NMFS has issued a specific number of LLP licenses, which establish an upper limit on the total number of potential participants in GOA groundfish fisheries. LLP licenses are assigned endorsements for specific areas (*e.g.,* Central or Western GOA), specific gear (*e.g.,* trawl or hook-and-line gear), operation type (*e.g.,* catcher vessel or catcher/processor), and in the case of vessels using hook-and-line or pot gear in the Central and Western GOA Pacific cod fisheries, a Pacific cod endorsement. LLP licenses must have the necessary endorsements for the fishing to be conducted. For example, in order for a vessel to be used to conduct directed fishing for Pacific cod in the

Central GOA as a hook-and-line catcher/processor, the vessel must be named on an LLP license that has hook-and-line, catcher/processor, and Pacific cod endorsements for the Central GOA. Additional detail on the LLP is available in the final rule implementing the LLP (63 FR 52642, October 1, 1998), and in the final rule implementing Amendment 86 to the GOA FMP, which established Pacific cod endorsement requirements for hook-and-line and pot gear in the Central and Western GOA (March 22, 2011, 76 FR 15826).

GOA Pacific Cod Sideboard Limits Established Under the BSAI Crab Rationalization Program

The BSAI Crab Rationalization Program (CR Program) was implemented in 2005 and established a catch share program that allocates BSAI crab resources among harvesters, processors, and coastal communities (70 FR 10174, March 2, 2005). As part of the CR Program, eligible vessel owners and vessel captains were allocated quota share (QS) in several valuable crab fisheries, including the Bering Sea snow crab (*Chionoecetes opilio*) fishery (see Table 1 to 50 CFR part 680 and § 680.40(a) for a complete list of fisheries). The amount of crab QS assigned to each harvester is based on historic landings in these fisheries (see regulations at § 680.40(c)). The QS allocated to historic participants in the crab fisheries represents an exclusive harvest privilege, commonly known as a catch share. A catch share provides each qualified harvester with an annual allocation of a portion of the available TAC for each target species.

As a catch share program, the CR Program benefits eligible harvesters by allowing them to tailor their fishing to their specific exclusive harvest allocation. This allows harvesters to avoid a ''race for fish,'' in which participants compete against each other to maximize their catch before the TAC is reached. The CR Program provides increased flexibility for crab fishermen to choose when and where to fish or whether to lease their crab QS and fish for species other than crab. The Council and NMFS recognized that the benefits of the CR Program could create incentives for recipients of snow crab QS to increase their level of participation in groundfish fisheries, especially Pacific cod fisheries in the Central and Western GOA. Vessel owners that received snow crab QS were active in Pacific cod fisheries, and to a lesser extent pollock and other groundfish fisheries, in the GOA. Therefore, vessel owners receiving snow crab QS could increase their fishing effort in GOA groundfish fisheries because the allocation of snow crab QS provides an exclusive harvest privilege to each eligible vessel owner that can be leased, thereby providing the opportunity for those vessel owners to forgo crab harvests in the BSAI to directed fish for Pacific cod and other groundfish in the GOA.

Regulations implementing the CR Program established catch restrictions, known as CR Program GOA sideboards, to limit the potential adverse effects of the CR Program on GOA groundfish fisheries. These sideboards prevent CR Program participants from preempting fishermen in the GOA that did not receive benefits from the CR Program. The final rule implementing the CR Program (70 FR 10174, March 2, 2005) and Section 1.1.3 of the Analysis provide additional detail on the rationale for specific provisions of CR Program GOA sideboards. This preamble provides a summary of relevant provisions.

CR Program GOA sideboards apply to the owners and operators of vessels that (1) are not authorized to conduct directed fishing for pollock under the American Fisheries Act (AFA) of 1998 (Pub. L. 105–227, Title II of Division C); and (2) were used to fish for Bering Sea snow crab from 1996 through 2000. For this preamble, these vessels are termed ''non-AFA crab vessels.'' CR Program GOA sideboards also apply to any vessel that fishes under the authority of an LLP license originally issued to a non-AFA crab vessel. For this preamble, these LLP licenses are termed ''non-AFA crab LLP licenses.''

When developing the CR Program GOA sideboards, the Council and NMFS recognized that individual non-AFA crab vessels and associated non-AFA crab LLP licenses had varying levels of historical participation in the GOA groundfish fisheries. Therefore, the Council and NMFS established two broad categories of CR Program GOA sideboards: (1) Sideboard limits for groundfish species other than Pacific cod that apply to all non-AFA crab vessels and non-AFA crab LLP licenses; and (2) sideboard provisions for Pacific cod that apply to all non-AFA crab vessels and non-AFA crab LLP licenses but that vary depending on the specific harvest patterns of the non-AFA crab vessel and its associated non-AFA crab LLP license. Because this proposed action would not modify GOA sideboard limits for groundfish species other than Pacific cod, only the GOA Pacific cod sideboard provisions are further described in this preamble.

The CR Program establishes three separate GOA Pacific cod sideboard provisions based on historic fishing patterns for Bering Sea snow crab and GOA Pacific cod by non-AFA crab vessels from 1996 through 2000. Many vessels active in the Bering Sea snow crab fisheries during this time also used pot gear to fish for Pacific cod in the GOA because the gear is similar to the pot gear used for fishing crab, and the vessels were well-suited to fishing for Pacific cod. Specifically, some non-AFA crab vessels, and the non-AFA crab LLP licenses associated with those vessels, had relatively little participation in GOA Pacific cod fisheries and relatively high levels of participation in Bering Sea snow crab fisheries; some had relatively high levels of participation in GOA Pacific cod fisheries and relatively little participation in Bering Sea snow crab fisheries; and some had relatively moderate levels of participation in both GOA Pacific cod fisheries and Bering Sea snow crab fisheries.

To recognize these three different participation patterns, the CR Program established three types of GOA Pacific cod sideboard provisions for non-AFA crab vessels and non-AFA crab LLP licenses. These three CR Program GOA Pacific cod sideboard provisions are: (1) A prohibition on directed fishing for GOA Pacific cod for those non-AFA crab vessels and LLP licenses that had relatively little participation in GOA Pacific cod fisheries and relatively high levels of participation in Bering Sea snow crab fisheries; (2) a GOA Pacific cod sideboard limit for those non-AFA crab vessels and LLP licenses that had relatively moderate levels of participation in both GOA Pacific cod fisheries and Bering Sea snow crab fisheries; and (3) an exemption from the CR Program GOA Pacific cod sideboard limits for those non-AFA crab vessels and LLP licenses that had relatively high levels of participation in GOA Pacific cod fisheries and relatively little participation in Bering Sea snow crab fisheries. Because this proposed action would not modify the prohibition on directed fishing for GOA Pacific cod or the exemption from CR Program GOA Pacific cod sideboard limits, only the sideboard provision described under (2) above that imposes GOA Pacific cod sideboard limits is further described in this preamble.

Those non-AFA crab vessels and non-AFA crab LLP licenses that are not prohibited from directed fishing for GOA Pacific cod or exempt from GOA Pacific cod sideboard limits are subject to specific annual limits on the maximum amount of Pacific cod that can be caught. These annual limits are known as CR Program GOA Pacific cod sideboard limits. These CR Program

GOA Pacific cod sideboard limits are calculated based on the proportion of the GOA Pacific cod TACs in the Eastern, Central, and Western GOA harvested from 1996 through 2000 by non-AFA crab vessels subject to CR Program GOA Pacific cod sideboard limits (see regulations at § 680.22(a)(1)).

The CR Program created separate Pacific cod sideboard limits for the Eastern, Central, and Western GOA. CR Program GOA sideboard limits are established through the annual harvest specifications. Because the final annual harvest specifications for 2005 were effective before the final rule for the CR Program was effective, the CR Program GOA Pacific cod sideboard limits were first implemented in 2006 in the final 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006).

During a fishing year, NMFS manages CR Program GOA Pacific cod sideboard limits by tracking all catch of vessels subject to a sideboard limit to make sure the sideboard limits are not exceeded. NMFS opens directed fishing for GOA Pacific cod in a specific regulatory area by vessels subject to the CR Program GOA Pacific cod sideboard limit when it determines that all Pacific cod catch by those vessels, in directed fisheries and as incidental catch, would not exceed the sideboard limit in that area (see regulations at § 680.22(e)). NMFS prohibits directed fishing for GOA Pacific cod in a specific regulatory area by vessels subject to the CR Program GOA Pacific cod sideboard limit when it determines that the CR Program GOA Pacific cod sideboard limit is reached or the remainder of the sideboard limit is needed to account for incidental catch of Pacific cod by those vessels in other fisheries. NMFS will prohibit directed fishing for GOA Pacific cod in a specific regulatory area by vessels subject to the CR Program GOA Pacific cod sideboard limit through the annual harvest specifications if NMFS determines at the start of the fishing year that the CR Program GOA Pacific cod sideboard limit is insufficient to support a directed fishery by those vessels (see regulations at § 680.22(e)(2) and (3)).

Some of the vessels and LLP licenses active in the hook-and-line catcher/processor sector are subject to CR Program GOA Pacific cod sideboard limits. In general, the hook-and-line catcher/processor sector operates primarily in the BSAI, and to a lesser extent in the Central and Western GOA. The hook-and-line catcher/processor sector primarily targets Pacific cod. Recent estimates indicate that nearly 90 percent of the revenue from the hook-and-line catcher/processor sector is generated from directed fishing for Pacific cod (Section 1.6.2 of the Analysis provides additional detail on catch and revenue by the hook-and-line catcher/processor sector).

According to Section 1.6 of the Analysis, the hook-and-line catcher/processor sector operating in the EEZ off Alaska currently consists of 36 vessels. NMFS has determined that eight of these 36 vessels are subject to the CR Program GOA Pacific cod sideboard limits. The Federal Fisheries Permit (FFP) issued by NMFS to each of these eight vessels includes a designation indicating that the vessel is subject to the CR Program GOA Pacific cod sideboard limits. Of the LLP licenses that authorize a vessel to participate in the Central and/or Western GOA Pacific cod hook-and-line catcher/processor sector, NMFS has determined that five LLP licenses are subject to the CR Program GOA Pacific cod sideboard limits. These five LLP licenses include a designation indicating that the license is subject to the CR Program GOA Pacific cod sideboard limits (see Section 1.6 of the Analysis for more detail).

NMFS has determined that the number of vessels subject to CR Program GOA Pacific cod sideboard limits and that have been used as hook-and-line catcher/processors in the GOA (eight vessels) is slightly more than the number of vessels identified in the analysis available to the Council at the time the Council recommended this proposed action (six vessels). NMFS has identified the following list of eight vessels that have operated as hook-and-line catcher/processors in the GOA and that are subject to CR Program GOA Pacific cod sideboard limits: *Aleutian Lady; Baranof; Beauty Bay; Bering Prowler; Blue Attu; Courageous; Siberian Sea;* and *US Liberator.* NMFS has revised the Analysis to provide a full description of the vessels subject to the CR Program GOA Pacific cod sideboard limits and updated the assessment of the impacts of this proposed action. Section 1.6 of the Analysis provides additional detail.

The following sections of the preamble describe the allocation of Pacific cod in the GOA and the effects of this allocation on the management of CR Program GOA Pacific cod sideboard limits in the Central and Western GOA.

Allocations of Pacific Cod in the GOA

For the last 20 years, Pacific cod in the GOA has been managed under two management regimes—inshore/offshore management from the early 1990s through 2011 and sector management under Amendment 83 to the GOA FMP (Amendment 83) from 2012 until the present. Prior to 2012, Pacific cod in the GOA was apportioned on the basis of processor component (*i.e.,* an inshore and an offshore component) and season, commonly known as inshore/offshore management. Under inshore/offshore management, 90 percent of the Eastern, Central, and Western GOA Pacific cod TACs were allocated to vessels catching Pacific cod for processing by the inshore component, and 10 percent to vessels catching Pacific cod for processing by the offshore component. In 2007, the Council recognized that, under inshore/offshore management, competition among participants in the Central and Western GOA Pacific cod fisheries had intensified beginning around 2005 relative to prior years. Because the Central and Western GOA Pacific cod TACs were divided by inshore and offshore processing components and not among gear or operation types, a race for fish existed among vessels in the inshore and the offshore components. All vessels using various types of gear (*i.e.,* hook-and-line, jig, pot, and trawl) competed against each other for the harvest of the GOA Pacific cod TACs.

In response to this race for fish, the Council recommended, and NMFS approved, Amendment 83 in 2011 (76 FR 74670, December 1, 2011). Regulations implementing Amendment 83 became effective on January 1, 2012. Amendment 83 removed inshore/offshore management for Pacific cod in the Central and Western GOA and allocated Central and Western GOA Pacific cod TACs among a number of sectors composed of combinations of various gear types, operation types, and vessel size classes. The final rule implementing Amendment 83 defines these Pacific cod sectors (76 FR 74670, December 1, 2011). Sector allocations limit the amount of Central and Western GOA Pacific cod that each sector is authorized to catch. Amendment 83 was intended to reduce competition and support stability in the Pacific cod fishery. Amendment 83 did not change Pacific cod management in the Eastern GOA because the same level of competition, or race for fish, did not exist in the Eastern GOA compared to the Central and Western GOA. Therefore, Pacific cod in the Eastern GOA is still subject to inshore/offshore management.

Under the regulations implementing Amendment 83, allocations from the Central and Western GOA Pacific cod TACs are made first to the jig sector, and then to all other sectors. The allocations made to the various sectors, other than jig gear, were based on harvest during a range of years that reflected historic and recent patterns of harvest by each sector

(see the final rule implementing Amendment 83 for additional detail (76 FR 74670, December 1, 2011)). Specific to this proposed action, regulations implementing Amendment 83 established sector allocations for hook-and-line catcher/processors in the Central GOA and the Western GOA. The hook-and-line catcher/processor sector receives 5.10 percent of the Central GOA Pacific cod TAC after allocation to jig gear, and 19.80 percent of the Western GOA Pacific cod TAC after allocation to jig gear (see § 679.20(a)(12)(i)(A) and (B)).

The allocations of Central and Western GOA Pacific cod to the hook-and-line catcher/processor sector can be harvested only by vessels that are named on an LLP license with Central and/or Western GOA, Pacific cod, hook-and-line, and catcher/processor endorsements (76 FR 74670, December 1, 2011). A total of 23 LLP licenses are endorsed for the Pacific cod hook-and-line catcher/processor sector in the Central GOA, and 18 LLP licenses are endorsed for the Pacific cod hook-and-line catcher/processor sector in the Western GOA (See Section 1.5 of the Analysis). Some of these LLP licenses are endorsed for both the Central and Western GOA; therefore, a total of 30 LLP licenses are endorsed for the Pacific cod hook-and-line catcher/processor sector in the Central or Western GOA. Twenty-seven of these 30 LLP licenses are also endorsed for the Bering Sea or Aleutian Islands Pacific cod hook-and-line catcher/processor sector. The three remaining LLP licenses are not endorsed for the BSAI Pacific cod hook-and-line catcher/processor sector, and fish exclusively in the GOA (see Section 1.5.4 of the Analysis for additional detail).

The Effect of Pacific Cod Sideboard Limits on Hook-and-Line Catcher/Processors in the Central and Western GOA

The CR Program GOA Pacific cod sideboard limits affected the eight vessels and the five LLP licenses subject to the sideboard limits differently starting in 2012 under Amendment 83 than under inshore/offshore management when the CR Program was first implemented in 2006 through 2011. When the CR Program GOA Pacific cod sideboard limits were implemented in 2006, CR Program Pacific cod GOA sideboard limits were divided between the inshore and offshore components in order to be consistent with inshore/offshore management measures in effect for Pacific cod at that time. From 2006 through 2011, the CR Program GOA Pacific cod sideboard limits were calculated by adding up the amount of harvest of all vessels subject to sideboards in the inshore or offshore components and dividing that by the catches of all vessels in either the inshore or offshore component to yield a sideboard ratio for the inshore and offshore components. The sideboard ratio was annually multiplied by the inshore or offshore TAC for the applicable area (*e.g.,* Central or Western GOA) to yield a sideboard limit for that year. Finally, the sideboard limit was divided into the seasonal apportionments established for the Central and Western GOA and published in the **Federal Register** as part of the harvest specifications. For example, the Central GOA inshore component sideboard ratio for the Pacific cod A season (January 1 to June 10) was 0.0383, or 3.08%of the A season TAC, and the Western GOA inshore component sideboard ratio for the A season was 0.0902, or 9.02% of the A season TAC. Additional detail on this allocation process is provided in Table 16 of the final 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006) and in Section 1.5.3 of the Analysis.

Because the CR Program GOA Pacific cod sideboard limits were allocated among the inshore and offshore components, and not allocated among gear-specific sectors (*e.g.,* hook-and-line gear, pot gear), the owners and operators of the eight sideboarded hook-and-line catcher/processors and the hook-and-line catcher/processors assigned to the five sideboarded LLP licenses competed with the other sideboarded participants in the inshore or offshore component, including vessels using other gear types (*e.g.,* pot gear). This created a ''race for sideboards'' as the various vessels subject to CR Program GOA Pacific cod sideboard limits in the inshore and offshore components competed amongst each other. The hook-and-line catcher/processor sector was able to effectively harvest a large portion of the Pacific cod sideboard limits in the Central and Western GOA under these management conditions, as noted in Section 1.6.2 of the Analysis.

As illustrated in Table 1, the hook-and-line catcher/processor participants subject to CR Program GOA Pacific cod sideboard limits catch more Pacific cod in the BSAI than in the GOA; however, these participants increased participation in the GOA Pacific cod fishery from 2001 through 2004 and had relatively higher Pacific cod catch rates following the implementation of the CR Program GOA Pacific cod sideboard limits from 2006 through 2011 as compared to catch rates during the historic period used to calculate the sideboards (1996–2000). Since the implementation of operation and gear-specific CR Program GOA Pacific cod sideboard limits under Amendment 83 in 2012, hook-and-line catcher/processors subject to these sideboards have not harvested GOA Pacific cod.

TABLE 1—AVERAGE CATCH IN THE GOA AND BSAI BY HOOK-AND-LINE CATCHER/PROCESSORS THAT ARE CURRENTLY SUBJECT TO THE CR PROGRAM GOA PACIFIC COD SIDEBOARDS RELATIVE TO THE AVERAGE PACIFIC COD TAC AMOUNTS FOR ALL SECTORS IN THE BSAI AND GOA: 1996 THROUGH 2000, CATCH DURING THE PERIOD USED TO CALCULATE CR PROGRAM SIDEBOARDS; 2001–2004, CATCH PRIOR TO IMPLEMENTATION OF CR PROGRAM; 2005–2011, CATCH FOLLOWING IMPLEMENTATION OF CR PROGRAM; AND 2012–2013, CATCH FOLLOWING IMPLEMENTATION OF GEAR AND OPERATION TYPE SPECIFIC CR PROGRAM GOA PACIFIC COD SIDEBOARDS UNDER AMENDMENT 83

Time period	BSAI			GOA			Percent of GOA catch relative to total BSAI and GOA Pacific cod catch
	TAC (mt)	Catch (mt)	Percent of TAC	TAC (mt)	Catch (mt)	Percent of TAC	
1996–2000	224,000	7,988	4	65,345	266	<1	3
2001–2004	202,750	15,480	8	46,228	792	2	5

TABLE 1—AVERAGE CATCH IN THE GOA AND BSAI BY HOOK-AND-LINE CATCHER/PROCESSORS THAT ARE CURRENTLY SUBJECT TO THE CR PROGRAM GOA PACIFIC COD SIDEBOARDS RELATIVE TO THE AVERAGE PACIFIC COD TAC AMOUNTS FOR ALL SECTORS IN THE BSAI AND GOA: 1996 THROUGH 2000, CATCH DURING THE PERIOD USED TO CALCULATE CR PROGRAM SIDEBOARDS; 2001–2004, CATCH PRIOR TO IMPLEMENTATION OF CR PROGRAM; 2005–2011, CATCH FOLLOWING IMPLEMENTATION OF CR PROGRAM; AND 2012–2013, CATCH FOLLOWING IMPLEMENTATION OF GEAR AND OPERATION TYPE SPECIFIC CR PROGRAM GOA PACIFIC COD SIDEBOARDS UNDER AMENDMENT 83—Continued

Time period	BSAI			GOA			Percent of GOA catch relative to total BSAI and GOA Pacific cod catch
	TAC (mt)	Catch (mt)	Percent of TAC	TAC (mt)	Catch (mt)	Percent of TAC	
2005–2011	187,816	22,046	12	53,474	634	1	3
2012–2013	260,500	31,819	12	63,150	0	0	0

During the development and implementation of Amendment 83, the Council and NMFS made reasoned and consistent decisions to maintain the years of catch history of GOA Pacific cod originally used to calculate the CR Program GOA Pacific cod sideboard limits (*i.e.,* 1996 through 2000). In addition, the Council and NMFS clearly chose to base the CR Program GOA Pacific cod sideboard limits on harvests by specific sectors (*e.g.,* hook-and-line catcher/processors, pot catcher/processors). The preamble to the final rule for Amendment 83 (76 FR 74670, December 1, 2011) and Section 1.5.4 of the Analysis provide additional detail. The net effect of these decisions is that CR Program GOA Pacific cod sideboard limits for the hook-and-line catcher/processor sector are based on the harvest of Pacific cod by non-AFA crab vessels and vessels using non-AFA crab LLP licenses that operated as hook-and-line catcher/processors during 1996 through 2000.

Overall, there was very limited harvest of Pacific cod by non-AFA crab vessels and vessels using non-AFA crab LLP licenses operating as hook-and-line catcher/processors in the Central and Western GOA from 1996 through 2000. Therefore, the sideboard limits established under Amendment 83 for GOA Pacific cod for vessels in the hook-and-line catcher/processor sector in the Central and Western GOA are a very small portion of the TACs. For example, the Central GOA hook-and-line catcher/processor sideboard ratio for the Pacific cod A season (January 1 to June 10) is 0.0012 or 0.12% of the A season TAC, and the Western GOA hook-and-line catcher/processor sideboard ratio for the Pacific cod A season is 0.0018 or 0.18% of the A season TAC. Additional detail is provided in the final 2014 and 2015 harvest specifications for groundfish of the GOA (79 FR 12890, March 6, 2014), and in Section 1.5.4 of the Analysis.

Since the implementation of Amendment 83, NMFS has prohibited directed fishing by participants subject to CR Program GOA Pacific cod sideboard limits in the hook-and-line catcher/processor sector in the Central and Western GOA. NMFS has made this determination each year based on the small amount of the sideboard limits, the need to account for incidental catch of Pacific cod by sideboarded hook-and-line catcher/processors in other groundfish fisheries in the Central and Western GOA, and the potential catch rates of Pacific cod by sideboarded hook-and-line catcher/processors relative to the sideboard limits. Additional information is provided in the final 2014 and 2015 harvest specifications for groundfish of the GOA (79 FR 12890, March 6, 2014) and in Section 1.5.4 of the Analysis.

In October 2011, the Council received public comment requesting that the Council and NMFS reconsider the method for applying the CR Program GOA Pacific cod sideboard limits as proposed under Amendment 83. This comment was received prior to the publication of the final rule implementing Amendment 83 on December 1, 2011 (76 FR 74670). Representatives of hook-and-line catcher/processor sector participants, who would be subject to CR Program GOA Pacific cod sideboard limits under Amendment 83, asserted that application of the proposed sideboard limits would eliminate the ability to directed fish in the Central and Western GOA Pacific cod fisheries. At its October 2011 meeting, the Council noted that the proposed sideboard ratios were included in the analysis for Amendment 83 and were considered by the Council at final action. As part of Amendment 83, the Council considered—and rejected—alternative methods for managing CR Program GOA Pacific cod sideboard limits (see Section 2.2.4 of the analysis prepared for Amendment 83). At the time the Council took action to recommend Amendment 83, the Council recognized that the CR Program GOA Pacific cod sideboard ratios resulting from the revised calculation method were not likely to provide enough TAC to support directed sideboard fisheries for all catcher/processor gear types, let alone for specific catcher/processor sectors such as the hook-and-line catcher/processor sector.

After considering public comment during the October 2011 meeting, the Council did not recommend rescinding or revising the method for calculating CR Program GOA Pacific cod sideboard limits, as proposed under Amendment 83. Therefore, NMFS implemented regulations under Amendment 83 that establish separate sideboard limits by sector, including sideboard limits specific to the hook-and-line catcher/processor sector in the Central and Western GOA (76 FR 74670, December 1, 2011). However, in October 2011, the Council did initiate an analysis to examine alternative methods for managing CR Program GOA Pacific cod sideboard limits that apply to the hook-and-line catcher/processor sector. During the development of this action, the Council considered the merits of removing the GOA Pacific cod hook-and-line C/P sideboard limits for the sideboarded vessels and LLP licenses. Under this approach, the eight vessels and five LLP licenses would continue to have CR Program sideboard designations affixed to them, but the sideboard designation would have no effect in fisheries, such as Central and Western GOA Pacific cod, for which no sideboard limit is established. After reviewing a discussion paper at its June

2012 meeting, the Council developed a problem statement and alternatives, and tasked staff to prepare an initial analysis of a proposed action to remove the Pacific cod sideboard limits in the Central and Western GOA. In February 2013, the Council reviewed an initial review analysis and added the option of removing the sideboard limits only if all eligible participants in the Central and Western GOA Pacific cod hook-and-line catcher/processor sectors submit an affidavit asking NMFS to remove the sideboard limits. Following a review of the analysis and considering public comment, the Council recommended Amendment 45 to the Crab FMP in June 2013. This action is intended to balance the Council's competing objectives: (1) To relieve the CR Program GOA Pacific cod sideboard limits for some vessels and LLP licenses that benefitted from allocations under the CR program, and (2) to protect the GOA-only participants from adverse impacts that may result from removal of those sideboard limits.

Proposed Action

This action is necessary to provide participants in the Central and Western GOA hook-and-line catcher/processor sectors with an opportunity to cooperatively coordinate harvests of Pacific cod through private arrangement to the participants' mutual benefit, which would remove the need for current regulations that impose sideboard harvest restrictions on some participants in the sectors. The Council determined and NMFS agrees that making the removal of the sideboard limits contingent on the equitable cooperation of all participants in the GOA Pacific cod hook-and-line catcher/processor sectors would ensure the management stability that is necessary for removal of the sideboard limits. This action would establish the regulatory conditions that must be met prior to the removal of CR Program GOA Pacific cod sideboard limits for the hook-and-line catcher/processor sectors in the Central and/or Western GOA. NMFS would remove the sideboard limits if each person holding an LLP license or LLP licenses with endorsements that authorize directed fishing for Pacific cod as a hook-and-line catcher/processor in the Central or Western GOA (*i.e.,* eligible participants) provide NMFS with a signed form requesting that NMFS remove the Pacific cod sideboard limit for that regulatory area.

Under this proposed rule, all of the eligible participants in the Central or Western GOA would be required to submit to NMFS a completed Request to Extinguish Pacific Cod Sideboard Limit in the Central or Western GOA. The Council and NMFS determined that LLP license holders best represent the eligible participants in the Central and Western GOA hook-and-line catcher/processor sectors. As noted earlier in this preamble, an LLP license is required to deploy a vessel to conduct directed fishing for Pacific cod in the Central and Western GOA Pacific as a hook-and-line catcher/processor. Therefore, the holders of LLP licenses endorsed for Pacific cod, hook-and-line gear, and catcher/processor in the Central and/or Western GOA represent the complete range of all eligible participants. The Council and NMFS determined that the owners of vessels currently used in the Central and Western GOA hook-and-line catcher/processor sector are not the best representation of eligible participants. Vessels that are currently used as hook-and-line catcher/processors in the Central and Western GOA can become active in other fisheries, removed from the fishery, or replaced by other vessels. While vessels are needed to participate in the fishery, vessel ownership is not the defining eligibility criterion because a vessel may lack the LLP endorsements that authorize a vessel to participate in a fishery. Thus, the holders of LLP licenses with the necessary endorsements, rather than vessels owners, represent the universe of eligible fishery participants in the Central and Western GOA hook-and-line catcher/processor sectors.

The proposed rule would add Table 10 to Part 680. Proposed Table 10 to Part 680 would identify the 23 LLP licenses with endorsements that authorize a vessel to catch and process Pacific cod at-sea using hook-and-line gear in the Central GOA, and the 18 LLP licenses with endorsements that authorize a vessel to catch and process Pacific cod at-sea using hook-and-line gear in the Western GOA. The holders of the LLP licenses listed in proposed Table 10 to Part 680 would comprise the universe of participants eligible to request removal of a GOA Pacific cod sideboard limit. Each holder of an LLP license with Central GOA endorsements listed in proposed Table 10 to Part 680 would need to complete and submit to NMFS the form requesting removal of the CR Program GOA Pacific cod sideboard limit in the Central GOA. Similarly, each holder of an LLP license with Western GOA endorsements listed in proposed Table 10 to Part 680 would need to complete and submit to NMFS the form requesting removal of the CR Program GOA sideboard limit in the Western GOA.

The proposed rule would modify Federal regulations at § 680.22(e)(1) to establish a regulatory process for the removal of the CR Program GOA Pacific cod sideboard limits. Under the proposed rule, NMFS would permanently remove a CR Program GOA Pacific cod sideboard limit if NMFS receives the required form from each eligible participant in the Central GOA (see proposed regulations at § 680.22(e)(1)(ii)(A)) and Western GOA (see proposed regulations at § 680.22(e)(1)(ii)(B)). Although this proposed action is intended to provide an opportunity for coordination and cooperation among all eligible participants in both the Central and Western GOA, the Council and NMFS recognized that eligible participants may reach agreement to remove the CR Program GOA Pacific cod sideboard limit in one regulatory area, but not in the other regulatory area. By allowing the eligible participants to submit requests for each regulatory area separately, a CR Program GOA Pacific cod sideboard limit could be removed for one regulatory area without requiring all eligible participants in both areas to agree.

Proposed regulations at § 680.22(e)(1)(ii) would require that holders of the LLP licenses listed in Table 10 to Part 680 submit a completed form applicable to the Central or Western GOA no later than 1 year (365 days) after the date of publication in the **Federal Register** of the final rule implementing Amendment 45, if approved by the Secretary. The Council determined and NMFS agrees that a 1-year deadline would encourage negotiations and provide adequate opportunity for eligible participants in a regulatory area to reach agreement to submit the required form, but would not prolong management uncertainty about the potential applicability of the CR Program GOA Pacific cod sideboard limits. If the required forms are not received by NMFS by the date or the methods specified under proposed regulations at § 680.22(e)(1)(ii), the CR Program GOA Pacific cod sideboard limits would not be removed and the opportunity to remove them would expire.

The proposed regulations at § 680.22(e)(1)(ii) clarify that NMFS would not establish CR Program GOA Pacific cod sideboard limits for the hook-and-line catcher/processor sector in a regulatory area through the annual harvest specification process if NMFS receives completed request forms from all eligible participants in a regulatory area by the deadline. As noted earlier in this preamble, CR Program GOA Pacific cod sideboard limits are currently implemented through the annual

harvest specification process; therefore, it follows that any modification to the sideboard limits must align with the annual harvest specifications cycle. Sideboard limits could not be removed immediately upon receipt by NMFS of the required forms. If NMFS would receive the required forms after the annual harvest specification cycle is completed, NMFS would remove a CR Program GOA Pacific cod sideboard limit for the hook-and-line catcher/processor sector during the next annual harvest specification cycle for GOA groundfish.

The proposed rule does not require eligible participants to enter into a private contractual agreement to coordinate fishing practices within that regulatory area prior to submitting to NMFS the required forms requesting removal of a CR Program GOA Pacific cod sideboard limit. However, the Council and NMFS anticipate that all eligible participants in the Central or Western GOA would reach a binding agreement to coordinate fishing practices within that regulatory area prior to submitting to NMFS the required forms requesting removal of a CR Program GOA Pacific cod sideboard limit. Voluntary agreements, or fishing cooperatives, have consistently proven to be effective at coordinating fishing practices and resolving conflicts among fishery participants in numerous fisheries throughout the BSAI and GOA (see Section 1.6.1 of the Analysis for additional detail). Any voluntary contractual agreements that may be reached by eligible participants are not required to be reviewed by or submitted to NMFS under the proposed rule. NMFS notes that it is highly unlikely that eligible participants who did not benefit from the CR Program would agree to request removal of a CR Program GOA Pacific cod sideboard limit unless they have established private agreements with all eligible participants that are beneficial to them.

If the holder of the LLP licenses listed in proposed Table 10 to Part 680 are unable, or unwilling, to agree to request that NMFS remove a CR Program GOA Pacific cod sideboard limit in a regulatory area within the proposed timeline, the sideboard limit for that regulatory area would continue to apply. Maintaining the CR Program GOA Pacific cod sideboard limits—if unanimous agreement for their removal is not reached by the eligible participants—is consistent with the objectives of sideboard management as established by the CR Program and the sideboard limit calculation method established under regulations implementing Amendment 83. Removing sideboard limits without unanimous agreement of all of the eligible participants could indicate that eligible participants have not agreed to coordinate harvests. This could increase the likelihood of a race for fish and could allow those who received QS under the CR Program to expand their efforts in the GOA Pacific cod fisheries. Such a result would not be consistent with the goals of the CR Program or the Council's objectives for this action.

The Council considered and rejected an option that would have suspended, rather than permanently removed, the CR Program GOA Pacific cod sideboard limits. The Council concluded that if eligible participants had to renegotiate and resubmit request forms each year, management and operational uncertainty among eligible participants would substantially increase, and could result in increased administrative burden and costs when compared to the permanent removal of the CR Program GOA Pacific cod sideboard limits as proposed by this action. Section 2.2 of the Analysis provides additional description about the potential costs and uncertainty resulting from this rejected approach.

This proposed action would not modify the CR Program GOA Pacific cod sideboard limits for hook-and-line catcher/processors in the Eastern GOA. As explained earlier, this action would not remove the sideboard designations on the FFPs for the eight sideboarded vessels or the five sideboarded LLP licenses, and these vessels and LLP licenses will still be subject to a CR Program Pacific cod sideboard limit if they are used in the Eastern GOA. As also noted earlier in this preamble, Amendment 83 did not modify CR Program GOA Pacific cod sideboard limits in the Eastern GOA. The Eastern GOA is still subject to inshore/offshore management. As a result, the CR Program GOA Pacific cod sideboard limits in the Eastern GOA were not recalculated for gear and operation type. Additionally, NMFS notes that this proposed action would not increase the likelihood that an OFL, ABC, TAC, or sector catch limit would be exceeded. As proposed, Pacific cod TACs and sector allocations would continue to be established through the annual GOA harvest specifications process and managed by NMFS as described earlier in this preamble.

Classification

Pursuant to sections 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Crab FMP, GOA FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

Initial Regulatory Flexibility Analysis

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the proposed action, why it is being considered, and the legal basis for this proposed action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble and are not repeated here. While this IRFA concludes that no small entities will be directly regulated by this action, this is a result of the IRFA analysis, and NMFS has thus chosen not to certify that the proposed rule is not expected to have a significant economic impact on a substantial number of directly regulated small entities. A summary of the IRFA follows. A copy of the IRFA is available from NMFS (see **ADDRESSES**).

Number and Description of Small Entities Regulated by the Proposed Action

This proposed action would directly regulate eight entities. These eight entities include the owners of the eight vessels, and the holders of the five LLP licenses currently subject to CR Program GOA Pacific cod sideboard limits in the Central and Western GOA hook-and-line catcher/processor sectors. The owners of the eight vessels and holders of the five LLP licenses directly regulated by this proposed action are affiliated through their membership in the Freezer Longline Conservation Cooperative (FLCC). The FLCC represents LLP holders and the owners and operators of vessels that participate in the Pacific cod hook-and-line catcher/processor sector in the Federal waters of the BSAI. The FLCC is comprised of businesses that are engaged in the harvesting and processing of finfish. The annual revenue of members of the FLCC has exceeded $130 million per year since its formation, and $172 million in 2012, the most recent year of available revenue data (see Table 1–14 in Section 1.6 of the Analysis for additional detail).

Members of the FLCC are not considered small entities because the annual revenue of the cooperative exceeds the size standards for small entities. The Small Business

Administration (SBA) has established size standards for all major industry sectors in the United States, including commercial finfish harvesters (NAICS code 114111), commercial shellfish harvesters (NAICS code 114112), other commercial marine harvesters (NAICS code 114119), for-hire businesses (NAICS code 487210), marinas (NAICS code 713930), seafood dealers/wholesalers (NAICS code 424460), and seafood processors (NAICS code 311710). A business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual gross receipts not in excess of $20.5 million, for all its affiliated operations worldwide. For commercial shellfish harvesters, the same qualifiers apply, except the combined annual gross receipts threshold is $5.5 million. For other commercial marine harvesters, for-hire fishing businesses, and marinas, the same qualifiers apply, except the combined annual gross receipts threshold is $7.5 million.

A business primarily involved in seafood processing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual employment, counting all individuals employed on a full-time, part-time, or other basis, not in excess of 500 employees for all its affiliated operations worldwide. For seafood dealers/wholesalers, the same qualifiers apply, except the employment threshold is 100 employees.

In determining a number of employees, SBA counts all individuals employed on a full-time, part-time, or other basis. This includes employees obtained from a temporary employee agency, professional employee organization or leasing concern. SBA will consider the totality of the circumstances, including criteria used by the IRS for Federal income tax purposes, in determining whether individuals are employees of a concern. Volunteers (*i.e.,* individuals who receive no compensation, including no in-kind compensation, for work performed) are not considered employees. Where the size standard is number of employees, the method for determining a concern's size includes the following principles: (1) The average number of employees of the concern is used (including the employees of its domestic and foreign affiliates) based upon numbers of employees for each of the pay periods for the preceding completed 12 calendar months; and (2) part-time and temporary employees are counted the same as full-time employees.

Three entities hold LLP licenses and own vessels that operate only in the GOA as hook-and-line catcher/processors. These three entities are not directly regulated by the CR Program GOA Pacific cod sideboard limits, and are not members of the FLCC. One entity owns a vessel named on an LLP license with Central GOA Pacific cod hook-and-line catcher/processor endorsements; the other two entities each own a vessel named on LLP licenses with Western GOA Pacific cod hook-and-line catcher/processor endorsements. These three entities are not directly regulated by this action because this action would not impose regulations on these vessels or the associated LLP licenses, or relieve them from regulation. These three entities may voluntarily choose to submit a request for removal of the sideboard limits under this action, but are not required to do so.

Duplicate, Overlapping, or Conflicting Federal Rules

No duplication, overlap, or conflict between this proposed action and existing Federal rules has been identified.

Description of Significant Alternatives that Minimize Adverse Impacts on Small Entities

The Council considered two alternatives for this action. Alternative 1 is the status quo, which does not meet the objectives of the action. Alternative 2 would remove the CR Program GOA Pacific cod sideboard limits in either the Central GOA, Western GOA, or both regulatory areas. As part of Alternative 2, the Council and NMFS also considered an option and a suboption for removing the CR Program GOA Pacific cod sideboard limits. The option (*i.e.,* proposed action) would remove CR Program GOA Pacific cod sideboard limits for the hook-and-line catcher/processor sector permanently if certain conditions are met by a specified date. The sub-option would suspend the CR Program GOA Pacific cod sideboard limits for the hook-and-line catcher/processor sector on an annual basis if certain conditions are met annually.

The option would require all hook-and-line catcher/processor LLP license holders that are authorized to target Pacific cod in the Central or Western GOA (*i.e.,* eligible participants) to submit a form to NMFS requesting the permanent removal of the GOA Pacific cod sideboard limit in that regulatory area on a one-time basis. The option would also require the request to be submitted within one year of the date of publication in the **Federal Register** of the final rule implementing Amendment 45, if approved by the Secretary.

The sub-option would require all eligible participants to annually submit a form to NMFS requesting removal of the GOA Pacific cod sideboard limit in that regulatory area for the upcoming fishing year. Under the sub-option, if the annual form is not received by NFMS, the sideboard limits would not be removed for the following fishing year (*i.e.,* January 1 through December 31).

This proposed action would implement Alternative 2 with the option to permanently remove the CR Program GOA sideboard limits if all eligible participants in a regulatory area submit to NMFS a form requesting removal and provide that form to NMFS within the required timeline. The Council rejected the sub-option because the annual suspension of sideboards could create uncertainty for participants, result in additional administrative burden and costs, and potentially create management instability.

Although this proposed action does not directly regulate small entities, the preferred alternative is the only alternative in the suite of options and alternatives considered that reduces the burden on directly regulated entities and best meets the purpose and need for this proposed action.

Recordkeeping and Reporting Requirements

The reporting, recordkeeping, and other compliance requirements would be increased slightly under the proposed action if eligible participants in the Central or Western GOA agree to submit an affidavit to NMFS requesting removal of the CR Program GOA sideboard limits.

Collection-of-Information Requirements

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval under OMB Control No. 0648–0334. Public reporting burden for the Request to Extinguish Pacific Cod Sideboard Limits for Hook-and-Line Catcher/Processors in the Western or Central GOA is estimated to average 30 minutes per individual response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov* or fax to 202–395–5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at: *http://www.cio.noaa.gov/services_programs/prasubs.html.*

List of Subjects in 50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: February 6, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 680 is proposed to be amended as follows:

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Public Law 109–241; Public Law 109–479.

■ 2. In § 680.22, revise paragraph (e) heading and introductory text, and paragraph (e)(1) to read as follows:

§ 680.22 Sideboard protections for GOA groundfish fisheries.

* * * * *

(e) *Conversion of sideboard ratios into annual sideboard harvest limits.* NMFS will convert sideboard ratios into annual sideboard harvest limits according to the following procedures.

(1) *Annual sideboard harvest limits.* (i) Except as provided in paragraph (e)(1)(ii) of this section, annual sideboard harvest limits for each groundfish species, except fixed-gear sablefish, will be established by multiplying the sideboard ratios calculated under paragraph (d) of this section by the proposed and final TACs in each area for which a TAC is specified. If a TAC is further apportioned by season, the sideboard harvest limit also will be apportioned by season in the same ratio as the overall TAC. The resulting harvest limits expressed in metric tons will be published in the annual GOA groundfish harvest specification notices.

(ii) NMFS will not establish an annual sideboard harvest limit for Pacific cod for vessels that catch and process Pacific cod using hook-and-line gear in the Central GOA Regulatory Area if all eligible participants request that the sideboard harvest limit be removed in accordance with the requirements of paragraph (e)(1)(ii)(A) of this section. NMFS will not establish an annual sideboard harvest limit for Pacific cod for vessels that catch and process Pacific cod using hook-and-line gear in the Western GOA Regulatory Area if all eligible participants request that the sideboard harvest limit be removed in accordance with the requirements of paragraph (e)(1)(ii)(B) of this section. NMFS will publish notification of the removal of the sideboard harvest limit for Pacific cod for vessels that catch and process Pacific cod using hook-and-line gear in the Central GOA Regulatory Area or the Western GOA Regulatory Area through the annual GOA groundfish harvest specifications (see § 679.20(c)(1)(iii) and (c)(3)(ii)).

(A) *Central GOA.* For the Central GOA Regulatory Area (Statistical Areas 620 and 630; see Figure 3 to 50 CFR part 679), the holders of all LLP licenses listed in Column A of Table 10 to this part must submit to NMFS a completed Request to Extinguish Pacific Cod Sideboard Limits for Hook-and-Line Catcher/Processors in the Western or Central GOA, and the request must be received by NMFS on or before [*INSERT DATE 365 DAYS AFTER THE DATE OF PUBLICATION OF THE FINAL RULE IN THE* ***Federal Register***].

(B) *Western GOA.* For the Western GOA Regulatory Area (Statistical Area 610; see Figure 3 to 50 CFR part 679), the holders of all LLP licenses listed in Column B of Table 10 to this part must submit to NMFS a completed Request to Extinguish Pacific Cod Sideboard Limits for Hook-and-Line Catcher/Processors in the Western or Central GOA, and the request must be received by NMFS on or before [*INSERT DATE 365 DAYS AFTER THE DATE OF PUBLICATION OF THE FINAL RULE IN THE* ***Federal Register***].

* * * * *

■ 3. Add Table 10 to part 680 to read as follows:

TABLE 10 TO PART 680—LICENSE LIMITATION PROGRAM LICENSE NUMBERS THAT AUTHORIZE THE OWNERS AND OPERATORS OF CATCHER/PROCESSORS TO DIRECTED FISH FOR PACIFIC COD WITH HOOK-AND-LINE GEAR IN THE CENTRAL GULF OF ALASKA REGULATORY AREA (COLUMN A) AND IN THE WESTERN GULF OF ALASKA REGULATORY AREA (COLUMN B)

Column A:	Column B:
LLG1125	LLG1400.
LLG1128	LLG1401.
LLG1400	LLG1576.
LLG1576	LLG1578.
LLG1713	LLG1785.
LLG1785	LLG1916.
LLG1916	LLG1917.
LLG1917	LLG2026.
LLG1989	LLG2081.
LLG2081	LLG2112.
LLG2112	LLG2892.
LLG2238	LLG2935.
LLG2705	LLG3090.
LLG2783	LLG3602.
LLG2892	LLG3617.
LLG2958	LLG3676.
LLG3609	LLG4004.
LLG3616	LLG4823.
LLG3617.	
LLG3676.	
LLG3681.	
LLG3973.	
LLG4823.	

[FR Doc. 2015–02911 Filed 2–11–15; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 80, No. 29
Thursday, February 12, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2014–0094]

Availability of an Environmental Assessment for the Biological Control of Emerald Ash Borer

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a draft environmental assessment relative to the control of emerald ash borer, *Agrilus planipennis*. The environmental assessment considers the effects of, and alternatives to, the field release of a parasitic wasp, *Spathius galinae,* into the continental United States for use as a biological control agent to reduce the severity of emerald ash borer infestations. We are making the environmental assessment available to the public for review and comment.

DATES: We will consider all comments that we receive on or before March 16, 2015.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0094.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2014–0094, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0094* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Shirley Wager-Pagé, Assistant Director, Pest Permitting Branch, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 851–2323.

SUPPLEMENTARY INFORMATION: The emerald ash borer (EAB), *Agrilus planipennis,* is an invasive wood-boring beetle from Asia threatening the ash trees (*Fraxinus* spp.) in the United States. EAB larvae feed on ash phloem, cutting off the movement of resources within the tree and killing the tree in 4–5 years. EAB is able to attack and kill healthy trees in both natural and urban environments and is well suited for climate conditions in the continental United States. As a result, EAB infestations have been detected in 24 states: Arkansas, Colorado, Connecticut, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin. The Animal and Plant Health Inspection Service (APHIS) is proposing to issue permits for the field release of a parasitic wasp, *Spathius galinae,* into the continental United States to reduce the severity of EAB infestations.

APHIS' review and analysis of the proposed action are documented in detail in a draft environmental assessment (EA) entitled ''Field Release of the Parasitoid *Spathius galinae* for the Biological Control of the Emerald Ash Borer (*Agrilus planipennis*) in the Continental United States'' (January 2014). We are making the EA available to the public for review and comment. We will consider all comments that we receive on or before the date listed under the heading **DATES** at the beginning of this notice.

The EA may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for a link to Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the draft EA by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the EA when requesting copies.

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR part 1b); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 6th day of February 2015.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–02914 Filed 2–11–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Seek Approval To Revise and Extend a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Agricultural Resources Management Survey and Chemical Use Surveys. A revision to burden hours will be needed due to changes in the size of the target population, sampling design, and/or questionnaire length.

DATES: Comments on this notice must be received by April 13, 2015 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0218, by any of the following methods:

- *Email: ombofficer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *eFax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S.

Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

• *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: R. Renee Picanso, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS—OMB Clearance Officer, at (202) 690–2388 or at *ombofficer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Agricultural Resources Management Survey and Chemical Use Surveys.

OMB Control Number: 0535–0218.

Expiration Date of Current Approval: October 31, 2015.

Type of Request: Intent to revise and extend a currently approved information collection.

Abstract: The Agricultural Resource Management Survey(s) (ARMS) are the primary source of information for the U.S. Department of Agriculture on a broad range of issues related to: production practices, costs and returns, pest management, chemical usage, and contractor expenses. Data is collected on both a whole farm level and on selected commodities.

ARMS is the only source of information available for objective evaluation of many critical issues related to agriculture and the rural economy, such as: whole farm finance data, including data sufficient to construct estimates of income for farms by: type of operation, loan commodities, income for operator households, credit, structure, and organization; marketing information; and other economic data on input usage, production practices, and crop substitution possibilities.

Data from ARMS are used to produce estimates of net farm income by type of commercial producer as required in 7 U.S.C. 7998 as amended and estimates of enterprise production costs as required in 7 U.S.C. 1441(a) as amended. Data from ARMS are also used as weights in the development of the Prices Paid Index, a component of the Parity Index referred to in the Agricultural Adjustment Act of 1938, as amended. These indexes are used to calculate the annual federal grazing fee rates as described in the Public Rangelands Improvement Act of 1978 and Executive Order 12548 and as promulgated in regulations found at 36 CFR 222.51, as amended.

In addition, ARMS is used to produce estimates of sector-wide production expenditures and other components of income that are used in constructing the estimates of income and value-added which are transmitted to the U.S. Department of Commerce, Bureau of Economic Analysis, by the USDA Economic Research Service (ERS) for use in constructing economy-wide estimates of Gross Domestic Product. This transmittal of data, prepared using the ARMS, is undertaken to satisfy a 1956 agreement between the Office of Management and Budget and the Departments of Agriculture and Commerce that a single set of estimates be published on farm income.

Chemical Use Surveys: Congress has mandated that NASS and ERS build nationally coordinated databases on agricultural chemical use and related farm practices; these databases are the primary vehicles used to produce specified environmental and economic estimates. The surveys will help provide the knowledge and technical means for producers and researchers to address on-farm environmental concerns in a manner that maintains agricultural productivity.

In this approval request, there are three significant program changes. First, the Fruit Chemical Use Survey will be reinstated in rotation with the Vegetable Chemical Use Survey. These two surveys will be conducted in alternating years. Second, starting in October 2015, data on Microbial Food Safety Practices used by farmers will be collected on both the Vegetable and Fruit Chemical Use Surveys. Finally, a new annual survey will be added to collect data on the Microbial Food Safety Practices—Packer Survey.

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 (at 44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320.

NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA).'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average approximately 45 minutes per survey.

Respondents: Farmers, ranchers, farm managers, farm contractors, and farm households.

Estimated Number of Respondents: Approximately 90,000 respondents will be sampled each year. Over half of these respondents will be contacted more than one time in a single year.

Estimated Total Annual Burden on Respondents: Approximately 85,000 hours per year.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed at Washington, DC, January 30, 2015.

R. Renee Picanso,

Associate Administrator.

[FR Doc. 2015–02943 Filed 2–11–15; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Invitation for Nominations to the Advisory Committee on Agriculture Statistics

AGENCY: National Agricultural Statistics Service (NASS).

ACTION: Solicitation of Nominations to the Advisory Committee on Agriculture Statistics.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, this notice announces an invitation from the Office of the Secretary of Agriculture for nominations to the Advisory Committee on Agriculture Statistics.

On September 2, 2014, the Secretary of Agriculture renewed the Advisory

Committee charter for a two-year term to expire on September 2, 2016. The purpose of the Committee is to advise the Secretary of Agriculture on the scope, timing, content, etc., of the periodic censuses and surveys of agriculture, other related surveys, and the types of information to obtain from respondents concerning agriculture. The Committee also prepares recommendations regarding the content of agriculture reports and presents the views and needs for data of major suppliers and users of agriculture statistics.

DATES: The nomination period for interested candidates will close February 27, 2015.

ADDRESSES: You may submit nominations by any of the following methods:

- *Email:* Scan the completed form and email to: *HQSDOD@nass.usda.gov.*
- *eFax:* (855) 593–5473.
- *Mail:* Nominations should be mailed to Hubert Hamer, Executive Director, Agricultural Statistics Board, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 5431 South Building, Washington, DC 20250–2010.
- *Hand Delivery/Courier:* Hand deliver to: Hubert Hamer, Executive Director, Agricultural Statistics Board, National Agricultural Statistics Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 5431 South Building, Washington, DC 20250–2010.

FOR FURTHER INFORMATION CONTACT: Hubert Hamer, Executive Director, Agricultural Statistics Board, National Agricultural Statistics Service, (202) 720–3896.

SUPPLEMENTARY INFORMATION: Each person nominated to serve on the committee is required to submit the following form: AD–755 (Advisory Committee Membership Background Information, OMB Number 0505–0001), available on the Internet at *http://www.usda.gov/documents/OCIO_AD_755_Master_2012.pdf.* This form may also be requested by telephone, fax, or email using the information above. Completed forms may be faxed to the number above, mailed, or completed and emailed directly from the Internet site. NASS is seeking additional nominations to fill vacancies on the Advisory Committee on Agriculture Statistics. The original invitation for nominations ran from September 18, 2014 to October 24, 2014. Applications submitted during this time frame will be considered along with additional nominations received through this announcement.

For more information on the Advisory Committee on Agriculture Statistics, see the NASS Web site at *http://www.nass.usda.gov.* At the top of the homepage, click on the tab titled ''About NASS''. The ''Advisory Committee on Agricultural Statistics'' button is along the right column.

The Committee draws on the experience and expertise of its members to form a collective judgment concerning agriculture data collected and the statistics issued by NASS. This input is vital to keep current with shifting data needs in the rapidly changing agricultural environment and keeps NASS informed of emerging issues in the agriculture community that can affect agricultural statistics activities.

The Committee, appointed by the Secretary of Agriculture, consists of 20 members representing a broad range of disciplines and interests, including, but not limited to, producers, representatives of national farm organizations, agricultural economists, rural sociologists, farm policy analysts, educators, State agriculture representatives, and agriculture-related business and marketing experts.

Members serve staggered 2-year terms, with terms for half of the Committee members expiring in any given year. Nominations are being sought for 6 open Committee seats. Members can serve up to 3 terms for a total of 6 consecutive years. The Chairperson of the Committee shall be elected by members to serve a 1-year term.

Equal opportunity practices, in line with USDA policies, will be followed in all membership appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by USDA, membership will include to the extent possible, individuals with demonstrated ability to represent the needs of all racial and ethnic groups, women and men, and persons with disabilities.

The duties of the Committee are solely advisory. The Committee will make recommendations to the Secretary of Agriculture with regards to the agricultural statistics programs of NASS, and such other matters as it may deem advisable, or which the Secretary of Agriculture; Under Secretary for Research, Education, and Economics; or the Administrator of NASS may request. The Committee will meet at least annually. All meetings are open to the public. Committee members are reimbursed for official travel expenses only.

Send questions, comments, and requests for additional information to the email address, fax number, or address listed above.

Signed at Washington, DC, January 30, 2015.

Joseph T. Reilly,

Administrator, National Agricultural Statistics Service.

[FR Doc. 2015–02945 Filed 2–11–15; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Announcement of Grant and Loan Application Deadlines

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Solicitation of Applications.

SUMMARY: The Rural Utilities Service (RUS) announces its Revolving Fund Program (RFP) application window for Fiscal Year (FY) 2015.

The RFP is authorized under section 306(a)(2)(B) of the Consolidated Farm and Rural Development Act (Con Act), 7 U.S.C. 1926 (a)(2)(B). Under the RFP, qualified private, non-profit organizations may receive RFP grant funds to establish a lending program for eligible entities. Eligible entities for the revolving loan fund will be the same entities eligible, under paragraph 1 or 2 of Section 306(a) of the Con Act, 7 U.S.C. 1926(a)(1) or (b)(2), to obtain a loan, loan guarantee, or grant from the RUS Water, Waste Disposal and Wastewater loan and grant programs.

This year administrative discretion points may be awarded for work plans that: Direct loans to the smallest communities with the lowest incomes emphasizing areas where according to the American Community Survey data by census tracts show that at least 20 percent of the population is living in poverty. This emphasis will support Rural Development's goal of providing 20 percent of its funding by 2016 to these areas of need;

Direct loans to areas that lack running water, flush toilets, and modern sewage disposal systems, and areas which have open sewers and high rates of disease caused by poor sanitation, in particular, colonias or Substantially Underserved Trust Areas; and

Direct loans that emphasize energy and water efficient components to reduce costs and increase sustainability of rural systems.

RUS will publish on its Web site at *http://www.rurdev.usda.gov/UWP-revolvingfund.html* the amount of

funding received in the FY2015 Appropriations Act, if any.

DATES: You may submit completed applications for grants on paper or electronically according to the following deadlines:

- Paper copies must be postmarked and mailed, shipped, or sent overnight no later than April 13, 2015 to be eligible for FY2015 grant funding. Late or incomplete applications will not be eligible for FY2015 grant funding.
- Electronic copies must be received by April 13, 2015 to be eligible for FY2015 grant funding. Late or incomplete applications will not be eligible for FY2015 grant funding.

ADDRESSES: You may obtain application guides and materials for the RFP program at the Water and Environmental Programs (WEP) Web site: *http://www.rurdev.usda.gov/UWP-revolvingfund.html.* You may also request application guides and materials by contacting Joyce M. Taylor at (202) 720–0499.

Submit completed paper applications for RFP grants to the Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 2233, STOP 1570, Washington, DC 20250–1570. Applications should be marked Attention: Joyce M. Taylor, Water and Environmental Programs.

Submit electronic grant applications at *http://www.grants.gov* (Grants.gov) and follow the instructions you find on that Web site.

FOR FURTHER INFORMATION CONTACT: Joyce M. Taylor, Community Programs Specialist, Water Programs Division, U.S. Department of Agriculture, Rural Utilities Service, STOP 1570, Room 2233–S, 1400 Independence Avenue SW., Washington, DC 20250–1570; Telephone: (202) 720–0499: Fax: (202) 690–0649.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Utilities Service (RUS).

Funding Opportunity Title: Grant Program to Establish a Fund for Financing Water and Wastewater Projects (Revolving Fund Program (RFP)).

Announcement Type: Solicitation of Applications.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.864.

Due Date for Applications: Applications must be mailed, shipped or submitted electronically through Grants.gov no later than April 13, 2015 to be eligible for FY2015 grant funding.

Items in Supplementary Information

I. Funding Opportunity

Drinking water systems are basic and vital to both health and economic development. With dependable water facilities, rural communities can attract families and businesses that will invest in the community and improve the quality of life for all residents. Without dependable water facilities, the communities cannot sustain economic development.

RUS provides financial and technical assistance to help communities bring safe drinking water and sanitary, environmentally sound waste disposal facilities to rural Americans. It supports the sound development of rural communities and the growth of our economy without endangering the environment.

The Revolving Fund Program (RFP) has been established under 7 CFR part 1783 to assist communities with water or wastewater systems. Qualified private, non-profit organizations, who are selected for funding, will receive RFP grant funds to establish a lending program for eligible entities. Eligible entities for the revolving loan fund will be the same entities eligible to obtain a loan, loan guarantee, or grant from the Water and Waste Disposal loan and grant programs administered by RUS, under 7 U.S.C.1926(a)(1) and (2). As grant recipients, the non-profit organizations will set up a revolving loan fund to provide loans to finance predevelopment costs of water or wastewater projects, or short-term small capital projects not part of the regular operation and maintenance of current water and wastewater systems. The amount of financing to an eligible entity shall not exceed $100,000.00 and shall be repaid in a term not to exceed 10 years. The rate shall be determined in the approved grant work plan.

II. Award Information

Available funds: To be determined. This Notice is being issued prior to passage of an FY2015 Appropriations Act, which may or may not provide an appropriation for this program, in order to allow applicants sufficient time to prepare and submit applications and to provide the Agency time to process the applications in a timely fashion. Successful applications will be selected by RUS for funding and subsequently awarded to the extent that funding may ultimately be made available to RUS through appropriations. RUS will publish on its Web site the amount of funding received in the final FY2015 Appropriations Act, if any.

III. Eligibility Information

A. Who is eligible to apply?

An applicant is eligible to apply for the RFP grant if it:

1. Is a private, non-profit organization;

2. Is legally established and located within one of the following:

(a) A state within the United States;

(b) The District of Columbia;

(c) The Commonwealth of Puerto Rico; or

(d) A United States territory;

3. Has the legal capacity and authority to carry out the grant purpose;

4. Has a proven record of successfully operating a revolving loan fund to rural areas;

5. Has capitalization acceptable to the Agency, and is composed of at least 51 percent of the outstanding interest or membership being citizens of the United States or individuals who reside in the United States after being legally admitted for permanent residence;

6. Has no delinquent debt to the Federal Government or no outstanding judgments to repay a Federal debt;

7. Demonstrates that it possesses the financial, technical, and managerial capability to comply with Federal and State laws and requirements; and

8. Is not a corporation that has been convicted of a felony (or had an officer or agent acting on behalf of the corporation convicted of a felony) within the past 24 months. Any Corporation that has any unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability is not eligible.

B. What are the basic eligibility requirements for a project?

1. The following activities are authorized under the RFP statute:

(a) Grant funds must be used to capitalize a revolving fund program for the purpose of providing direct loan financing to eligible entities for pre-development costs associated with proposed or with existing water and wastewater systems, or,

(b) Short-term costs incurred for equipment replacement, small-scale extension of services, or other small capital projects that are not part of the regular operations and maintenance activities of existing water and wastewater systems.

2. Grant funds may not be used to pay any of the following:

(a) Payment of the Grant Recipient's administrative costs or expenses, or,

(b) Delinquent debt owed to the Federal Government.

IV. Application and Submission Information

A. The Grant Application Guide, Copies of Necessary Forms and Samples, and the RFP Regulation Are Available From These Sources

1. The Internet: *http://www.rurdev.usda.gov/UWP-revolvingfund.html* or *http://www.grants.gov.*

2. For paper copies of these materials, you may call (202) 720–9589.

B. You May File an Application in Either Paper or Electronic Format

Whether you file a paper or an electronic application, you will need a DUNS number.

1. DUNS Number.

The applicant for a grant must supply a Dun and Bradstreet Data Universal Numbering System (DUNS) number as part of an application. The Standard Form 424 (SF–424) contains a field for the DUNS number. The applicant can obtain the DUNS number free of charge by calling Dun and Bradstreet. Please see *http://fedgov.dnb.com/webform* for more information on how to obtain a DUNS number or how to verify your organization's number.

In accordance with 2 CFR part 25, whether applying electronically or by paper, the applicant must register in the System for Award Management (SAM) (formerly Central Contractor Registry, (CCR)) prior to submitting an application. Applicants may register for the SAM at *https://www.sam.gov/portal/public/SAM/*. The SAM registration must remain active with current information at all times while RUS is considering an application or while a Federal Grant Award or loan is active. To remain registered in the SAM database the applicant must review and update the information in the SAM database annually from date of initial registration or from the date of the last update. The applicant must ensure that the information in the database is current, accurate, and complete.

2. Applications submitted by paper:

(a) Send or deliver paper applications by the U.S. Postal Service (USPS) or courier delivery services to: Water and Environmental Programs, Rural Utilities Service, 1400 Independence Avenue SW., Attention: Joyce M. Taylor, Mail STOP 1570, Room 2233–S, Washington, DC 20250–1570.

(b) For paper applications mail or ensure delivery of an original paper application (no stamped, photocopied, or initialed signatures) and two copies by the deadline date. The application and any materials sent with it become Federal records by law and cannot be returned to you.

3. Electronically submitted applications:

(a) Applications will not be accepted by fax or electronic mail.

(b) Electronic applications for grants will be accepted if submitted through Grants.gov at *http://www.grants.gov.*

(c) Applicants must preregister successfully with Grants.gov to use the electronic applications option. Application information may be downloaded from Grants.gov without preregistration.

(d) Applicants who apply through Grants.gov should submit their electronic applications before the deadline.

(e) Grants.gov contains full instructions on all required passwords, credentialing, and software. Follow the instructions at Grants.gov for registering and submitting an electronic application.

(f) Grants.gov has two preregistration requirements: A DUNS number and an active registration in the SAM. See Item 1 above for instructions on obtaining a DUNS number and registering in the SAM.

C. A Complete Application Must Meet the Following Requirements

1. To be considered for support, you must be an eligible entity and must submit a complete application by the deadline date. You should consult the cost principles and general administrative requirements for grants pertaining to their organizational type in order to prepare the budget and complete other parts of the application. You also must demonstrate compliance (or intent to comply), through certification or other means, with a number of public policy requirements. Applications should be prepared in conformance with the provisions in 2 CFR parts 180, 182, and regulations applicable to USDA including 2 CFR parts 421, and 417.

2. Applicants must complete and submit the following forms to apply for a RFP grant:

(a) Standard Form 424, ''Application for Federal Assistance.''

(b) Standard Form 424A, ''Budget Information—Non-Construction Programs.''

(c) Standard Form 424B, ''Assurances—Non-Construction Programs.''

(d) Standard Form LLL, ''Disclosure of Lobbying Activity.''

(e) Form RD 400–1, ''Equal Opportunity Agreement.''

(f) Form RD 400–4, ''Assurance Agreement (Under Title VI, Civil Rights Act of 1964).

3. The project proposal should outline the project in sufficient detail to provide a reader with a complete understanding of how the loan program will work. Explain what you will accomplish by lending funds to eligible entities. Demonstrate the feasibility of the proposed loan program in meeting the objectives of this grant program. The proposal should cover the following elements:

(a) Present a brief project overview. Explain the purpose of the project, how it relates to RUS's purposes, how you will carry out the project, what the project will produce, and who will direct it.

(b) Describe why the project is necessary. Demonstrate that eligible entities need loan funds. Quantify the number of prospective borrowers or provide statistical or narrative evidence that a sufficient number of borrowers will exist to justify the grant award. Describe the service area. Address community needs.

(c) Clearly state your project goals. Your objectives should clearly describe the goals and be concrete and specific enough to be quantitative or observable. They should also be feasible and relate to the purpose of the loan program.

(d) The narrative should cover in more detail the items briefly described in the Project Summary. It should establish the basis for any claims that you have substantial expertise in promoting the safe and productive use of revolving funds. In describing what the project will achieve, you should tell the reader if it also will have broader influence. The narrative should address the following points:

(1) Document your ability to administer and service a revolving fund in accordance with the provisions of 7 CFR part 1783.

(2) Document your ability to commit financial resources to establish the RFP with funds your organization controls. This documentation should describe the sources of funds other than the RFP grant that will be used to pay your operational costs and provide financial assistance for projects.

(3) Demonstrate that you have secured commitments of significant financial support from other funding sources, if appropriate.

(4) List the fees and charges that borrowers will be assessed.

(e) The work plan must describe the tasks and activities that will be accomplished with available resources during the grant period. It must show the work you plan to do to achieve the anticipated outcomes, goals, and objectives set out for the RFP. The plan must:

(1) Describe the work to be performed by each person.

(2) Give a schedule or timetable of work to be done.

(3) Show evidence of previous experience with the techniques to be used or their successful use by others.

(4) Outline the loan program to include the following: specific loan purposes, a loan application process, priorities, borrower eligibility criteria, limitations, fees, interest rates, terms, and collateral requirements.

(5) Provide a marketing plan.

(6) Explain the mechanics of how you will transfer loan funds to the borrowers.

(7) Describe follow-up or continuing activities that should occur after project completion such as monitoring and reporting borrowers' accomplishments.

(8) Describe how the results will be evaluated. The evaluation criteria should be in line with the project objectives.

(9) List all personnel responsible for administering this program along with a statement of their qualifications and experience.

(f) The written justification for projected costs should explain how budget figures were determined for each category. It should indicate which costs are to be covered by grant funds and which costs will be met by your organization or other organizations. The justification should account for all expenditures discussed in the narrative. It should reflect appropriate cost-sharing contributions. The budget justification should explain the budget and accounting system proposed or in place. The administrative costs for operating the budget should be expressed as a percentage of the overall budget. The budget justification should provide specific budget figures, rounding off figures to the nearest dollar. Applicants should consult OMB Circular A–122: ''Cost Principles for Non-Profit Organizations'' or any successor guidance for information about appropriate costs for each budget category.

(g) In addition to completing the standard application forms, you must submit:

(1) Supplementary material that demonstrate that your organization is legally recognized under state or Tribal and Federal law. Satisfactory documentation includes, but is not limited to, certificates from the Secretary of State, or copies of state statutes or laws establishing your organization. Letters from the IRS awarding tax-exempt status are not considered adequate evidence.

(2) A certified list of directors and officers with their respective terms.

(3) Evidence of tax exempt status from the IRS.

(4) Debarment and suspension information is required in accordance with 2 CFR part 417 (Nonprocurement Debarment and Suspension) supplemented by 2 CFR part 180, if it applies. The section heading is ''What information must I provide before entering into a covered transaction with the Federal Government?'' located at 2 CFR 180.335. It is part of OMB's Guidance for Grants and Agreements concerning Government-wide Debarment and Suspension.

(5) All of your organization's known workplaces by including the actual address of buildings (or parts of buildings) or other sites where work under the award takes place. Workplace identification is required under the drug-free workplace requirements in subpart B of 2 CFR part 421, which adopts the Governmentwide implementation (2 CFR part 182) of the Drug-Free Workplace Act.

(6) The most recent audit of your organization.

(7) The following financial statements:

i. A pro forma balance sheet at start-up and for at least three additional years; Balance sheets, income statements, and cash flow statements for the last three years.

ii. If your organization has been formed less than three years, the financial statements should be submitted for the periods from inception to the present. Projected income and cash flow statements for at least three years supported by a list of assumptions showing the basis for the projections. The projected income statement and balance sheet must include one set of projections that shows the revolving loan fund only and a separate set of projections that shows your organization's total operations.

(8) Additional information to support and describe your plan for achieving the grant objectives. The information may be regarded as essential for understanding and evaluating the project and may be found in letters of support, as resolutions, policies, and other relevant documents. The supplements may be presented in appendices to the proposal.

V. Application Review Information

A. Within 30 days of receiving your application, RUS will send you a letter of acknowledgment. Your application will be reviewed for completeness to determine if you included all of the items required. If your application is incomplete or ineligible, RUS will return it to you with an explanation.

B. A review team, composed of at least two RUS staff members, will evaluate all applications and proposals. They will make overall recommendations based on factors such as eligibility, application completeness, and conformity to application requirements. They will score the applications based on criteria in the next section.

C. All applications that are complete and eligible will be ranked competitively based on the following scoring criteria:

1. Degree of expertise and successful experience in making and servicing commercial loans, with a successful record, for the following number of full years:

(a) At least 1 but less than 3 years—5 points.

(b) At least 3 but less than 5 years—10 points.

(c) At least 5 but less than 10 years—20 points.

(d) 10 or more years—30 points.

2. Extent to which the work plan demonstrates a well thought out, comprehensive approach to accomplishing the objectives of this part, clearly defines who will be served by the project, clearly articulates the problem/issues to be addressed, identifies the service area to be covered by the RFP loans and appears likely to be sustainable; up to 40 points

3. Percentage of applicant contributions. Points allowed under this paragraph will be based on written evidence of the availability of funds from sources other than the proceeds of an RFP grant to pay part of the cost of a loan recipient's project. In-kind contributions will not be considered. Funds from other sources as a percentage of the RFP grant and points

corresponding to such percentages are as follows:

(a) Less than 20 percent—ineligible.

(b) At least 20 percent but less than 50 percent—10 points.

(c) 50 percent or more—20 points.

4. Extent to which the goals and objectives are clearly defined, tied to the work plan, and are measurable; up to 15 points.

5. Lowest ratio of projected administrative expenses to loans advanced; up to 10 points.

6. The evaluation methods for considering loan applications and making RFP loans are specific to the program, clearly defined, measurable, and are consistent with program outcomes; up to 20 points.

7. Administrator's discretion points may be awarded based on the following:

(a) Directs loans to the smallest communities with the lowest incomes emphasizing areas where according to the American Community Survey data by census tracts show that at least 20 percent of the population is living in poverty. This emphasis will support Rural Development's goal of providing 20 percent of its funding by 2016 to these areas of need.

(b) Directs loans to areas which lack running water, flush toilets, and modern sewage disposal systems, and areas which have open sewers and high rates of disease caused by poor sanitation, in particular, colonias or Substantially Underserved Trust Areas.

(c) Directs loans that emphasize energy and water efficient components to reduce costs and increase sustainability of rural systems; up to 10 points.

VI. Award Administration Information

A. RUS will rank all qualifying applications by their final score. Applications will be selected for funding, based on the highest scores and the availability of funding for RFP grants. Each applicant will be notified in writing of the score its application receives.

B. In making its decision about your application, RUS may determine that your application is:

1. Eligible and selected for funding,

2. Eligible but offered fewer funds than requested,

3. Eligible but not selected for funding, or

4. Ineligible for the grant.

C. In accordance with 7 CFR part 1900, subpart B, you generally have the right to appeal adverse decisions under 7 CFR part 11. Some adverse decisions cannot be appealed. For example, if you are denied RUS funding due to a lack of funds available for the grant program, this decision cannot be appealed. However, you may make a request to the National Appeals Division (NAD) to review the accuracy of our finding that the decision cannot be appealed. The appeal must be in writing and filed at the appropriate Regional Office, which can be found at *http://www.nad.usda.gov/* or by calling (703) 305–1166.

D. Applicants selected for funding will complete a grant agreement, which outlines the terms and conditions of the grant award.

E. Grantees will be reimbursed as follows:

1. SF–270, ''Request for Advance or Reimbursement,'' will be completed by the grantee in accordance with 7 CFR part 3000 or any successor regulations.

2. Upon receipt of a properly completed SF–270, the funds will be requested through the field office terminal system. Ordinarily, payment will be made within 30 days after receipt of a proper request for reimbursement.

3. Grantees are encouraged to use women- and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members) for the deposit and disbursement of funds.

F. Any change in the scope of the project, budget adjustments of more than 10 percent of the total budget, or any other significant change in the project must be reported to and approved by the approval official by written amendment to the grant agreement. Any change not approved may be cause for termination of the grant.

G. Grantees shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. The Grantee will provide project reports as follows:

1. SF–425, ''Financial Status Report (short form),'' and a project performance activity report will be required of all grantees on a quarterly basis, due 30 days after the end of each quarter.

2. A final project performance report will be required with the last SF–425 due 90 days after the end of the last quarter in which the project is completed. The final report may serve as the last quarterly report.

3. All multi-State grantees are to submit an original of each report to the National Office. Grantees serving only one State are to submit an original of each report to the State Office. The project performance reports should detail, preferably in a narrative format, activities that have transpired for the specific time period.

H. The grantee will provide an audit report or financial statements as follows:

1. Grantees expending $500,000 or more Federal funds per fiscal year will submit an audit conducted in accordance 7 CFR part 3052 or any successor regulation with OMB Circular A–133 or any successor guidance from OMB. The audit will be submitted within 9 months after the grantee's fiscal year. Additional audits may be required if the project period covers more than one fiscal year.

2. Grantees expending less than $500,000 will provide annual financial statements covering the grant period, consisting of the organization's statement of income and expense and balance sheet signed by an appropriate official of the organization. Financial statements will be submitted within 90 days after the grantee's fiscal year.

3. Recipient and Subrecipient Reporting.

The applicant must have the necessary processes and systems in place to comply with the reporting requirements for first-tier sub-awards and executive compensation under the Federal Funding Accountability and Transparency Act of 2006 in the event the applicant receives funding unless such applicant is exempt from such reporting requirements pursuant to 2 CFR part 170, § 170.110(b). The reporting requirements under the Transparency Act pursuant to 2 CFR part 170 are as follows:

(a) First Tier Sub-Awards of $25,000 or more in non-Recovery Act funds (unless they are exempt under 2 CFR part 170) must be reported by the Recipient to *http://www.fsrs.gov* no later than the end of the month following the month the obligation was made. Please note that currently underway is a consolidation of eight federal procurement systems, including the Sub-award Reporting System (FSRS), into one system, the System for Award Management (SAM). As result the FSRS will soon be consolidated into and accessed through *https://www.sam.gov/portal/public/SAM/*.

(b) The Total Compensation of the Recipient's Executives (5 most highly compensated executives) must be reported by the Recipient (if the Recipient meets the criteria under 2 CFR part 170) to *https://www.sam.gov/portal/public/SAM/* by the end of the month following the month in which the award was made.

(c) The Total Compensation of the Subrecipient's Executives (5 most highly compensated executives) must be reported by the Subrecipient (if the

Subrecipient meets the criteria under 2 CFR part 170) to the Recipient by the end of the month following the month in which the subaward was made.

VII. Agency Contacts

A. Web site: *http://www.usda.gov/rus/water.* The Rural Utilities Service Web site maintains up-to-date resources and contact information for the RFP.

B. Phone: 202–720–9589.

C. Fax: 202–690–0649.

D. Email: Joyce *M.Taylor@wdc.usda.gov.*

E. Main point of contact: Joyce M. Taylor, Community Programs Specialist, Water and Environmental Programs, Water Programs Division, Rural Utilities Service, U.S. Department of Agriculture.

VIII. Non-Discrimination Statement

USDA Non-Discrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

How To File a Complaint

If you wish to file an employment complaint, you must contact your agency's EEO Counselor within 45 days of the date of the alleged discriminatory act, event, or in the case of a personnel action. Additional information can be found online at *http://www.ascr.usda.gov/complaint_filing_file.html.*

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov.*

Persons With Disabilities

Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Dated: January 6, 2015.

Jasper Schneider,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2015–02702 Filed 2–11–15; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2014–2016 Company Organization Survey.

OMB Control Number: 0607–0444.

Form Number(s): NC–99001, NC–99007.

Type of Request: Extension of a currently approved collection.

Number of Respondents: 47,000.

Average Hours per Response: 3 hours and 10 minutes.

Burden Hours: 148,566.

Needs and Uses: The Census Bureau requests an extension of the currently approved Company Organization Survey (COS) data collection for survey years 2014, 2015 and 2016.

The Census Bureau conducts the annual COS to update and maintain a centralized, multipurpose Business Register (BR). In particular, the COS supplies critical information on the organizational structure, operating characteristics, and employment and payroll of multi-location enterprises. The 2014–2016 COS collection will not differ from the 2013. The sample size will remain the same as in 2013 surveying 47,000 respondents.

Form NC–99001 is mailed to multi-location enterprises. We ask questions on ownership or control by a domestic parent, ownership or control by a foreign parent, and ownership of foreign affiliates; research and development; company activities such as—employees from a professional employer organization, operating revenue and net sales, royalties and license fees for the use of intellectual property and manufacturing activities. Establishment inquiries include questions on operational status, mid-March employment, first-quarter payroll, and annual payroll of establishments.

In 2011, we submitted a non-substantive change to the COS questionnaire. This revision added three new inquiries as part of the Enterprise Statistics Program (ESP). These three inquiries were: (1) Operating Revenues and Net Sales; (2) Royalties and Licenses Fees for the Use of Intellectual Property; and (3) Manufacturing Activities. In 2012 and 2013 we continued to ask these questions on Form NC–99001 and it is our intention to continue to ask these additional questions for 2014–2016 on Form NC–99001. We also ask questions on ownership or control by a foreign parent, and ownership of foreign affiliates; research and development; royalties and license fees for the use of intellectual property and manufacturing activities. In addition to the mailing of multi-location enterprises, the Census Bureau will collect data for single-location companies on Form NC–99007 to some large single-location enterprises that may have added some locations.

The 2014–2016 COS will request company-level information from a selection of multi-establishment enterprises, which comprises roughly 42,000 parent companies and more than 1.4 million establishments. COS inquiries sent to each of the 42,000 multi-establishment enterprises will include inquiries on ownership or control by a domestic parent, ownership or control by a foreign parent, and ownership of foreign affiliates; research and development; company activities, such as—employees from a professional employer organization, operating revenue and net sales, royalties and license fees for the use of intellectual property, and manufacturing activities. Establishment inquiries include questions on operational status, mid-March employment, first-quarter payroll, and annual payroll of establishments.

In addition to the 42,000 multi-establishment enterprises, the 2014—2016 COS will include approximately 5,000 single-location companies that may have added some locations. The NC–99007 Form will collect data for the 5,000 single-location businesses.

The information collected by the COS is used to maintain and update the BR. The BR serves two fundamental purposes:

• First and most important, it provides sampling populations and enumeration lists for the Census Bureau's economic surveys and censuses, and it serves as an integral part of the statistical foundation underlying those programs. Essential for this purpose is the BR's ability to identify all known United States business establishments and their parent companies. Further, the BR must accurately record basic business attributes needed to control sampling and enumeration. These attributes include industry and geographic classifications, measures of size and economic activity, ownership characteristics, and contact information (for example, name and address).

• Second, it provides establishment data that serve as the basis for the annual County Business Patterns (CBP) statistical series. The CBP reports present data on number of establishments, first quarter payroll, annual payroll, and mid-March employment summarized by industry and employment size class for the United States, the District of Columbia, island areas, counties, and county-equivalents. No other annual or more frequent series of industry statistics provides comparable detail, particularly for small geographic areas

Affected Public: Business or other for-profit; Not-for-profit institutions; Farms; State, local or tribal governments.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 United States Code, Sections 182, 195, 224, and 225.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202)395–5806.

Dated: February 6, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–02865 Filed 2–11–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Advance Monthly Retail Trade Survey

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before April 13, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Karla Allen, U.S. Census Bureau, EID HQ–8K183A, 4600 Silver Hill Road, Washington, DC 20233–6500, (301) 763–7208 (or via the Internet at *Karla.l.Allen@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Advance Monthly Retail Trade Survey (MARTS) provides an early indication of monthly sales for firms located in the United States and classified in the Retail Trade or Food Services sectors as defined by the North American Industry Classification System (NAICS).

The MARTS sample is comprised of approximately 4,900 firms selected from the larger Monthly Retail Trade Survey (MRTS) sample of about 12,000 firms (OMB Control Number: 0607–0717). Firms are selected into the MARTS sample using a stratified design where the strata are defined by industry and size. The MARTS sample is re-selected, generally at 2½ to 3 year intervals, to ensure it is representative of the target population.

The survey requests sales and e-commerce sales for the month just ending. If reporting data for a period other than the calendar month, the survey asks for the period's length (4 or 5 weeks) and the date on which the period ended. The survey also asks for the number of establishments covered by the data provided and whether or not the sales data provided are estimates or more accurate ''book'' figures.

Survey results are published approximately 9 working days after the end of the reference month. There would be a delay in the availability of these results if the survey were not conducted, as results from the MRTS are not published until approximately 6 weeks after the end of the reference month. The Bureau of Economic Analysis (BEA) uses the survey results as critical inputs to the calculation of the Gross Domestic Product (GDP). Policymakers such as the Federal Reserve Board (FRB) need to have the timeliest estimates in order to anticipate economic trends and act accordingly. The Council of Economic Advisors (CEA) and other government agencies and businesses use the survey results to formulate and make decisions about economic policy.

II. Method of Collection

We will collect this information by mail, FAX, telephone follow-up, and Internet.

III. Data

OMB Control Number: 0607–0104.

Form Number: SM–44(12)A, SM–44(12)AE, SM–44(12)AS, and SM–72(12)A.

Type of Review: Regular submission.

Affected Public: Retail and Food Services firms in the United States.

Estimated Number of Respondents: 4,900.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 4,900.

Estimated Total Annual Cost: $0.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques

or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 6, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–02868 Filed 2–11–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Quarterly Services Survey

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before April 13, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Aidan Smith, U.S. Census Bureau, 8K175, Washington, DC 20233–6500, 301–763–2972, or *Aidan.D.Smith@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Quarterly Services Survey (QSS) covers employer firms with establishments located in the United States and classified in select service industries as defined by the North American Industry Classification System (NAICS). The QSS coverage currently includes all or parts of the following NAICS sectors: Utilities (excluding government owned); transportation and warehousing (except rail transportation and postal); information; finance and insurance (except funds, trusts, and other financial vehicles); real estate and rental and leasing; professional, scientific, and technical services (except offices of notaries); administrative and support and waste management and remediation services; educational services (except elementary and secondary schools, junior colleges, and colleges, universities, and professional schools); health care and social assistance; arts, entertainment, and recreation; accommodation; and other services (except public administration). The primary estimates produced from the QSS are quarterly estimates of total operating revenue and the percentage of revenue by source. The survey also produces estimates of total operating expenses from tax-exempt firms in industries that have a large not-for-profit component. For hospitals, the survey produces estimates of the number of inpatient days and discharges, and for select industries in the arts, entertainment, and recreation sector, the survey produces estimates of admissions revenue.

Firms are selected for the QSS using a stratified design with strata defined by industry, tax status, and estimated size based on annual revenue. The sample consists of approximately 19,000 firms and is a subsample of firms from the larger Service Annual Survey (OMB #0607–0422). Each quarter the QSS sample is updated to reflect the addition of new businesses and the removal of firms that have gone out-of-business.

The Bureau of Economic Analysis uses the survey results as input to its quarterly Gross Domestic Product (GDP) and GDP by industry estimates. The estimates provide the Federal Reserve Board and Council of Economic advisors with timely information to assess current economic performance. The Centers for Medicare and Medicaid Services use the QSS estimates to develop hospital-spending estimates for the National Accounts. Other government and private stakeholders also benefit from a better understanding of important cyclical components of the U.S. service economy.

II. Method of Collection

We will collect this information by Internet, mail, facsimile, and telephone follow-up. Approximately half of the QSS respondents are mailed a full paper form that provides the option for submission by Internet, mail, or facsimile. The remaining half of respondents are mailed only their username and password providing for submission by Internet. Respondents that report via the Internet in any given quarter are only mailed a username and password in subsequent quarters.

III. Data

OMB Control Number: 0607–0907.

Form Number(s): QSS–0A, QSS–0E, QSS–1A, QSS–1E, QSS–1PA, QSS–1PE, QSS–2A, QSS–2E, QSS–3A, QSS–3E, QSS–3SA, QSS–3SE, QSS–4A, QSS–4E, QSS–4FA, QSS–4FE, QSS–4SA, QSS–4SE, QSS–5A, QSS–5E, QSS–6A, QSS–6E, QSS–7A, QSS–7E, QSS–8A, QSS–8E, QSS–9A, QSS–9E.

Type of Review: Regular submission.

Affected Public: Businesses or other for-profit organizations, not-for-profit institutions, and government hospitals.

Estimated Number of Respondents: 19,500.

Estimated Time per Response: 15 minutes: QSS–0A, QSS–0E, QSS–1A, QSS–1E, QSS–1PA, QSS–1PE, QSS–2A, QSS–2E, QSS–3A, QSS–3E, QSS–3SA, QSS–3SE, QSS–5A, QSS–5E, QSS–6A, QSS–6E, QSS–7A, QSS–7E, QSS–8A, QSS–8E, QSS–9A, QSS–9E.

10 minutes: QSS–4A, QSS–4E, QSS–4FA, QSS–4FE, QSS–4SA, QSS–4SE.

Estimated Total Annual Burden Hours: 17,400.

Estimated Total Annual Cost to Public: $0

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 6, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–02873 Filed 2–11–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Quarterly Survey of Plant Capacity Utilization

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before April 13, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Mary Susan Bucci, U.S. Census Bureau, Economic Reimbursable Surveys Division, Room 7K039, Washington, DC 20233, (301) 763–4639 (or via the Internet at *Mary.Susan.Bucci@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to continue the current OMB clearance for the Quarterly Survey of Plant Capacity Utilization (SPC). The SPC is conducted quarterly, collecting from manufacturing plants and publishers, the value of actual production, the value of production that could have been achieved if operating at ''full production'' levels, and the value of production that could have been achieved if operating at ''national emergency'' levels. The survey also collects data on work patterns by shift. These data include hours in operation, production workers, and plant hours worked.

The primary users of these data will be the Federal Reserve Board (FRB) and the Defense Logistics Agency (DLA). The FRB will use these data in several ways. First, the capital workweek data will be used as an indicator of capital use in the estimation of monthly output (industrial production). Second, the workweek data will be used to improve the projections of labor productivity that are used to align industrial production (IP) with comprehensive benchmark information in the Economic Census, Manufacturing and Annual Survey of Manufactures. Third, the utilization rate data will assist in the assessment of recent changes in IP, as most of the high-frequency movement in utilization rates reflect production changes rather than capacity changes. Fourth, the time series of utilization rate data for each industry, in combination with the FRB IP data, will be used to estimate current and historical measures of capacity consistent with the FRB production measures. The DLA will use these data to assess readiness to meet demand for goods under selected national emergency scenarios.

II. Method of Collection

The Census Bureau will use the mail out/mail back survey forms to collect the data. We also offer an electronic version of the form for reporting via the Internet. Information for reporting online is included on the form. Companies will be asked to respond within 20 days of the initial mailing. This due date will be imprinted at the top of the form. Letters encouraging participation will be mailed to companies that have not responded by the designated time. Subsequent to the letter, we will conduct a telephone follow-up.

III. Data

OMB Control Number: 0607–0175.
Form Number: MQ–C2.
Type of Review: Regular submission.
Affected Public: Manufacturing and publishing plants.
Estimated Number of Respondents: 7,500 per quarter.
Estimated Time per Response: 2 hours and 5 minutes.
Estimated Total Annual Burden Hours: 62,500.
Estimated Total Annual Cost: $0.
Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S. Code, Sections 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 6, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–02867 Filed 2–11–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Annual Survey of School System Finances

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before April 13, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to David J. Gromos, U.S. Census Bureau, Economic Reimbursable Surveys Division, Room 7K145, Washington, DC 20233; (301) 763–4659 (or via the Internet at *david.j.gromos@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The U. S. Census Bureau plans to continue the current Office of Management and Budget clearance for the Annual Survey of School System Finances. The Annual Survey of School System Finances is the only comprehensive source of public elementary-secondary school system finance data collected on a nationwide scale using uniform definitions, concepts, and procedures. The collection covers the revenues, expenditures, debt, and assets of all public elementary-secondary school systems. This data collection has been coordinated with the National Center for Education Statistics (NCES). The NCES uses this collection to satisfy its need for school finance data.

Fiscal data provided by respondents aid data users in measuring the effectiveness of resource allocation. The products of this data collection make it possible for data users to search a single database to obtain information on such things as per pupil expenditures and the percent of state, local, and federal funding for each school system. Elementary-secondary education related spending is the single largest financial activity of state and local governments. Education finance statistics provided by the Census Bureau allow for analyses of how public elementary-secondary school systems receive their funding and how they are spending their funds.

II. Method of Collection

A letter is mailed electronically at the beginning of each survey period to solicit the assistance of the state education agencies. This letter officially announces the opening of the data collection period and requests some administrative data, such as the estimated date of submission, any change to the reporting format from prior year, and updated contact information for the state coordinator.

The survey form (F–33) contains item descriptions and definitions of the elementary-secondary education finance items collected jointly by the Census Bureau and NCES. It is used primarily as a worksheet and instruction guide by the state education agencies providing school finance data centrally for the school systems in their respective states. The Census Bureau collects almost all of the finance data for local school systems from state education agency databases through central collection arrangements with the state education agencies. The states transfer this information in electronic format over the Internet via file transfer protocol. The Census Bureau has also facilitated central collection of school system finance data by accepting data in multiple formats.

Supplemental forms are sent to school systems in states where the state education agency cannot provide information on assets (F–33–L1), indebtedness (F–33–L2), or both (F–33–L3).

III. Data

OMB Control Number: 0607–0700.

Form Number: F–33, Supplemental forms: F–33–L1, F–33–L2 and F–33–L3.

Type of Review: Regular submission.

Affected Public: State and local governments.

Estimated Number of Respondents: F–33: 51; Supplemental: 3,658.

Estimated Time per Response: F–33: 56 hrs. 21 minutes; Supplemental: 15 minutes.

Estimated Total Annual Burden Hours: 3,789 hrs.

Estimated Total Annual Cost: $0.

Respondents Obligation: Voluntary.

Legal Authority: Title 13, U.S.C., Sections 161 and 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 6, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–02866 Filed 2–11–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1964]

Reorganization of Foreign-Trade Zone 84 Under Alternative Site Framework; Houston, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Port of Houston Authority, grantee of Foreign-Trade Zone 84, submitted an application to the Board (FTZ Docket B–53–2014, docketed 08–01–2014) for authority to reorganize under the ASF with a service area of Harris County, Texas, within and adjacent to the Houston Customs and Border Protection port of entry, FTZ 84's existing Sites 1, 2, 3, 8, 10, 20, 26, 28 and 29 would be categorized as magnet sites, existing Sites 4, 5, 6, 7, 9, 11, 12, 13, 14, 15, 16, 23 and 24 would be categorized as usage-driven sites, and Temporary Sites 27, 30 and 32 would maintain their current zone designation;

Whereas, notice inviting public comment was given in the **Federal Register** (79 FR 46249–46250, 08–07–2014) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendation of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 84 under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, to a ASF sunset provision for magnet sites that would terminate authority for Sites 1, 8, 10, 20, 26, 28 and 29 if not activated within five years from the month of approval and for Site 2 if not activated within the initial eight years from the month of approval, and to a ASF sunset provision for usage-driven sites that would terminate authority for Sites 4, 5, 6, 7, 9, 11, 12, 13, 14, 15, 16, 23 and 24 if no foreign-status merchandise is admitted for a *bona fide* customs purpose within three years from the month of approval.

Signed at Washington, DC, this 30 day of January 2015.

Paul Piquado,

Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–02975 Filed 2–11–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of:

Maple Pacific Corporation, 26671 Sierra Vista, Mission Viejo, CA 96292, Respondent;

Andrew Hsu, 26671 Sierra Vista, Mission Viejo, CA 96292, Related Person.

A. Denial of Export Privileges of Maple Pacific Corporation

On February 6, 2012, in the U.S. District Court, Central District of California, Maple Pacific Corporation (''Maple Pacific''), was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)) (''IEEPA''). Specifically, Maple Pacific willfully exported and transshipped goods, namely, industrial parts used to maintain equipment in the steel manufacturing industry, from the United States to Iran without first obtaining from the United States Department of Commerce, Office of Foreign Assets Control, a license or written authorization for such export and transshipment, knowing such a license or authorization was required. Maple Pacific was sentenced to probation for two years, a $5,000 fine and $400 assessment.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA, the EAR, of any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to ten (10) years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

BIS received notice of Maple Pacific's conviction for violating the IEEPA, and has provided notice and an opportunity for Maple Pacific to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Maple Pacific. Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Maple Pacific's export privileges under the Regulations for a period of ten (10) years from the date of Maple Pacific's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Maple Pacific had an interest at the time of its conviction.

B. Denial of Export Privileges of Related Person Andrew Hsu

Pursuant to Sections 766.25(h) and 766.23 of the Regulations, the Director of BIS's Office of Exporter Services, in consultation with the Director of BIS's Office of Export Enforcement, may, in order to prevent evasion of a denial order, make a denial order applicable not only to the respondent, but also to other persons related to the respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business.

As provided in Section 766.23 of the Regulations, BIS gave notice to Andrew Hsu (''Hsu'') that his export privileges under the Regulations could be denied for up to ten (10) years due to his relationship with Maple Pacific and that BIS believed that naming Hsu as a person related to Maple Pacific would be necessary to prevent evasion of a denial order imposed against Maple Pacific. In providing such notice, BIS gave Hsu an opportunity to oppose its addition to the Maple Pacific Denial Order as a related party.

Having received no submission from Hsu, I have decided, following consultations with BIS's Office of Export Enforcement, including its Director, to include name Hsu as a Related Person and make this Denial Order applicable to Hsu, thereby denying his export privileges for ten (10) years from the date of Maple Pacific's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Hsu had an interest at the time of Maple Pacific's conviction. The 10-year denial period is scheduled to end on February 6, 2022.

Hsu is the sole owner of Maple Pacific and performed all aspects of Maple Pacific's operations. Therefore, Hsu is related to Maple Pacific within the meaning of Section 766.23. BIS also has reason to believe that Hsu should be added as a related person in order to prevent evasion of this Denial Order.

Accordingly, it is hereby *ordered:*

First, from the date of this Order until February 6, 2022, Maple Pacific Corporation, with a last known address of 26671 Sierra Vista, Mission Viejo, CA 96292, and when acting for or on its behalf, its successors, assigns, directors, officers, employees, agents, or representatives, and Andrew Hsu, with a last known address of 26671 Sierra Vista, Mission Viejo, CA 96292, and when acting for or on his behalf, his successors, assigns, employees, agents, or representatives (each as ''Denied Person'' and collectively the ''Denied Persons'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2014). The Regulations are issued pursuant to the Export Administration Act of 1979 (50 U.S.C. app. §§ 2401–2420 (2000)) (''the EAA'' or ''the Act''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 FR 46959 (August 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of a Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person, if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, in addition to the Related Person named above, after notice and opportunity for comment as provided in section 766.23 of the Regulations, any other individual, firm, corporation, or other association or organization or other person related to a Denied Person by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order if necessary to prevent evasion of this Order.

Fourth, in accordance with Part 756 and Section 766.25(g) of the Regulations, Maple Pacific may file an appeal of the issuance of this Order against it with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, in accordance with Part 756 and Section 766.23(c) of the Regulations, Hsu may file an appeal of naming him as a related person in this Order with the Under Secretary of Commerce for Industry and Security. This appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Sixth, a copy of this Order shall be provided to Maple Pacific and Hsu and shall be published in the **Federal Register**.

Seventh, this Order is effectively immediately and shall remain in effect until February 6, 2022.

Issued this 5th day of February, 2015.

Thomas Andrukonis,

Acting Director, Office of Exporter Services.

[FR Doc. 2015–02912 Filed 2–11–15; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Court Decisions Not in Harmony With Final Results of Administrative and New Shipper Reviews and Notice of Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On December 18, 2014, the United States Court of International Trade (''the Court'') issued final judgments in *Catfish Farmers of America et al.* v. *United States,* Consol. Court No. 11–00109 and *Catfish Farmers of America et al.* v. *United States,* Court No. 11–00110, sustaining the Department of Commerce's (''the Department'') AR6 Remand final results which included an aligned new shipper review.[1] On December 19, 2014, the Court issued final judgment in *Catfish Farmers of America et al.* v. *United States,* Court No. 11–00252, sustaining the Department's NSR7 Remand final results.[2] In the AR6 Remand, the Department recalculated the weighted-average dumping margin for Vinh Hoan Corporation (''Vinh Hoan'') using revised surrogate values for by-products (fish waste, broken meat, and fish skin) and made adjustments for the inventory changes in the surrogate financial statements.[3] Because Vinh Hoan's margin is now above *de minimis,* it also becomes the margin for those companies not individually examined but receiving a separate rate.[4] The margins for the voluntary respondent Vinh Quang Fisheries Corporation (''Vinh Quang'') and the new shipper Cuu Long Fish Joint Stock Company (''CL–Fish'') did not change and remain *de minimis.*

In the NSR 7 Remand, the Department recalculated the weighted-average dumping margin for IDI Corporation (''IDI'') and Thien Ma Seafood Company (''THIMACO'') using revised surrogate values for by-products (fish waste, broken meat and fish skin).[5] However, the margins for IDI and THIMACO did not change and remain *de minimis.*

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (''CAFC'') in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (''*Timken*''), as clarified by *Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (''*Diamond Sawblades*''), the Department is notifying the public that the final judgment in these cases is not in harmony with the Department's final results of the antidumping duty administrative and new shipper reviews of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam (''Vietnam'') covering the period of review August 1, 2008, through July 31, 2009 (''AR6 POR''), and August 1, 2009, through February 15, 2010 (''NSR7 POR''). With respect to the AR6 POR, the Department is amending the final results with respect to the weighted-average dumping margins for Vinh Hoan, Agifish, ESS LLC and South

[1] *See* Final Results Of Redetermination Pursuant To Court Remand, Consol. Court Nos. 11–00109 and 11–00110, Slip Ops. 13–63 and 13–64 (CIT May 23, 2013), dated January 17, 2014, (''AR6 Remand'') available at *http://enforcement.trade.gov/remands/13-63&64.pdf.*

[2] *See* Final Results Of Redetermination Pursuant To Court Remand, Consol. Court No. 11–00252, Slip Op. 13–91 (CIT July 22, 2013), dated January 17, 2014, (''NSR7 Remand'') available at *http://enforcement.trade.gov/remands/13-91.pdf.*

[3] *See* AR6 Remand at 41–46. As we explain below, the Department's recalculation of these surrogate values now yields an above *de minimis* weighted-average dumping margin for Vinh Hoan. Thus, consistent with our practice, the Department has amended the final results with respect to Vinh Hoan.

[4] These companies include: 1) An Giang Fisheries Import and Export Joint Stock Company (aka Agifish or An Giang Fisheries Import and Export); 2) East Sea Seafoods Limited Liability Company (formerly known as East Sea Seafoods Joint Venture Co., Ltd.) (''ESS LLC''); and 3) Southern Fishery Industries Co., Ltd. (''South Vina'').

[5] *See* NSR7 Remand at 39–41.

Vina.[6] As the rates did not change for the new shipper reviews, the Department is not amending those final results.

DATES: *Effective Date:* December 29, 2014.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos, AD/CVD Operations Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2243.

SUPPLEMENTARY INFORMATION:

Background

On March 22, 2011, the Department issued *AR6 Final Results.*[7] Vinh Hoan and Petitioners[8] timely filed complaints with the Court and challenged certain aspects of the *AR6 Final Results.* On May 23, 2013, the Court remanded the Department's *AR6 Final Results* and instructed the Department to reconsider each of the following issues: (1) Surrogate country selection; (2) the surrogate values for by-products (fish waste, broken meat and fish skin); (3) alleged subsidies in one of the surrogate financial statements; and (4) ministerial allegations and effects on margins.[9]

On June 17, 2011, the Department issued *NSR7 Final Results.*[10] IDI and THIMACO and Petitioners timely filed complaints with the Court and challenged certain aspects of the *NSR7 Final Results.* On July 22, 2013, the Court remanded the Department's *NSR7 Final Results* and instructed the Department to reconsider each of the following issues: (1) Surrogate country selection; and (2) the surrogate values for by-products (fish waste, broken meat and fish skin).[11]

On January 17, 2014, the Department filed the AR6 Remand and NSR7 Remand with the Court. With regard to the AR6 Remand and NSR7 Remand issues stated above, first, the Department maintained the selection of Bangladesh as the primary country. Second, the Department selected different surrogate values for the fish waste, broken meat, and fish skin by-products. With regard to the AR6 Remand only, the Department continued to use the same financial statements to calculate the surrogate financial ratios because the record did not contain evidence to provide a reason to believe or suspect that a countervailable subsidy was received during the relevant financial period. In addition, we accounted for all calculation changes as a result of the original ministerial error allegations and addressed the issues raised by the Court regarding the financial statements.

As a result, there are calculation changes due to selecting different by-product surrogate values and making an adjustment for the inventory changes in the financial statements. With regard to the AR6 Remand, after accounting for all such changes and issues, the resulting antidumping margin for the only mandatory respondent, Vinh Hoan, is $0.06 per kilogram. Because Vinh Hoan's margin is now above *de minimis,* it would also become the margin for those companies not individually examined, but receiving a separate rate. The margins for the voluntary respondent Vinh Quang and the new shipper CL-Fish did not change and remain *de minimis.* On December 18, 2014, the Court entered judgments sustaining the AR6 Remand.[12]

With regard to the NSR7 Remand, after accounting for all such changes and issues, the resulting antidumping margins for IDI and THIMACO remain *de minimis.* On December 19, 2014, the Court entered judgment sustaining the Remand.[13]

Timken Notice

In its decision in *Timken,* 893 F.2d at 341, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (''the Act''), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The Court's December 18, 2014, judgment sustaining the AR6 Remand constitutes a final decision of the Court that is not in harmony with the Department's *AR6 Final Results.* In addition, the Court's December 19, 2014, judgment sustaining the NSR 7 Remand constitutes a final decision of the Court that is not in harmony with the Department's *NSR7 Final Results.* This notice is published in fulfillment of the publication requirement of *Timken.*

Amended Final Results

Because there is now a final court decision, the Department is amending the *AR6 Final Results* with respect to Vinh Hoan, Agifish, ESS LLC, and South Vina. The revised weighted-average dumping margins for these exporters during the period April 1, 2009, through March 31, 2010, follow:

Exporter name	Weighted average dumping margin (dollars per kilogram)
Vinh Hoan Corporation	0.06
An Giang Fisheries Import and Export Joint Stock Company (aka Agifish or An Giang Fisheries Import and Export)	0.06
East Sea Seafoods Limited Liability Company (formerly known as East Sea Seafoods Joint Venture Co., Ltd.)	0.06
Southern Fishery Industries Co., Ltd	0.06

Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. In the event the Court's ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct U.S. Customs

[6] *See Certain Frozen Fish Fillets from the Socialist's Republic of Vietnam: Final Results of the Sixth Antidumping Duty Administrative Review and Sixth New Shipper Review,* 76 FR 15941 (March 22, 2011) (''*AR6 Final Results*'') and the accompanying Issues and Decision Memorandum.

[7] *Id.*

[8] Catfish Farmers of America and the following individual U.S. catfish processors: America's Catch, Consolidated Catfish Companies, LLC dba Country Select Catfish, Delta Pride Catfish, Inc., Harvest Select Catfish, Inc., Heartland Catfish Company, Pride of the Pond, and Simmons Farm Raised Catfish, Inc. (collectively, ''Petitioners'').

[9] *See Catfish Farmers of America et al.* v. *United States,* Court No. 11–00109, Slip Op. 13–63 (CIT May 23, 2013).

[10] *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Antidumping Duty New Shipper Reviews,* 76 FR 35403 (June 17, 2011) (''NSR7 Final Results'').

[11] *See Catfish Farmers of America et al.* v. *United States,* Court No. 11–00252, Slip Op. 13–91 (CIT July 22, 2013).

[12] *See Catfish Farmers of America et al.* v. *United States,* Court No. 11–00109, Slip. Op. 14–144 (CIT December 18, 2014); and *Catfish Farmers of America et al.* v. *United States,* Court No. 11–00110, Slip. Op. 14–145 (CIT December 18, 2014).

[13] *See Catfish Farmers of America et al.* v. *United States,* Court No. 11–00252, Slip. Op. 14–149 (CIT December 19, 2014).

and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise exported by Vinh Hoan, Agifish, ESS LLC, and South Vina using the assessment rate calculated by the Department in the Remand and listed above.

Cash Deposit Requirements

The cash deposit rate will remain the respondent-specific rate established for the subsequent and most-recent period during which the respondent was reviewed. The cash deposit rate for the Vietnam-wide entity, which is 2.39 U.S. dollars per kilogram, is the rate established for the subsequent and most-recent period during which the Vietnam-wide entity, including ESS LLC, was reviewed.[14]

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: February 3, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–02973 Filed 2–11–15; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–970]

Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Multilayered Wood Flooring From the People's Republic of China

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') preliminarily determines that Zhejiang Fuma Warm Technology Co., Ltd. (''Zhejiang Fuma'') is the successor-in-interest to Huzhou Fuma Wood Bus. Co., Ltd. (''Huzhou Fuma'') for purposes of the antidumping duty order on multilayered wood flooring from the People's Republic of China (''PRC'') and, as such, is entitled to Huzhou Fuma's cash deposit rate with respect to entries of subject merchandise. Interested parties are invited to comment on this preliminary determination.

DATES: *Effective Date:* February 12, 2015.

FOR FURTHER INFORMATION CONTACT: James Martinelli or Krisha Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2923 or (202) 482–4037, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 24, 2014, Zhejiang Fuma requested that the Department initiate an expedited changed circumstances review to confirm that Zhejiang Fuma is the successor-in-interest to Huzhou Fuma for purposes of determining antidumping duty liabilities.[1] We received no comments opposing Zhejiang Fuma's request.

On December 22, 2014, the Department extended the time period for determining whether to initiate a changed circumstances review by an additional 30 days, until February 7, 2015.[2]

On December 31, 2014 and January 20, 2015, Zhejiang Fuma responded to supplemental questionnaires issued by the Department.[3]

Scope of the Order

The merchandise covered by the order includes multilayered wood flooring, subject to certain exceptions.[4]

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (''HTSUS''): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.3175; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; and 9801.00.2500.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (''the Act'') and 19 CFR 351.216(d), the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party for a review of, an antidumping duty finding which shows changed circumstances sufficient to warrant a review of the order. The information submitted by Zhejiang Fuma claiming that Zhejiang Fuma is the successor-in-interest to Huzhou Fuma demonstrates changed

[14] *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review; 2012–2013,* 80 FR 2394 (January 16, 2015). For ESS LLC prior to the publication of the final results of review on January 16, 2015 the cash deposit rate remained the rate established prior to losing its separate rate status, which was 1.20 U.S. dollars per kilogram. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Amended Final Results of Antidumping Duty Administrative Review; 2011–2012,* 79 FR 37714 (July 2, 2014).

[1] *See* Letter from Zhejiang Fuma to the Department regarding, ''Multilayered Wood Flooring from the People's Republic of China: Request for Expedited Changed Circumstances Review'' (November 24, 2014) (''CCR Request'').

[2] *See* Letter from Abdelali Elouaradia, Director, Office IV, AD/CVD Operations, to Zhejiang Fuma, regarding ''Multilayered Wood Flooring From the People's Republic of China: Request for a Changed Circumstances Review'' (December 22, 2014).

[3] *See* Letter from Zhejiang Fuma to the Department, regarding ''Multilayered Wood Flooring from the People's Republic of China: Request for Expedited Changed Circumstances Review'' (December 31, 2014) (''Supplemental Response''); Letter from Zhejiang Fuma to the Department, regarding ''Multilayered Wood Flooring from the People's Republic of China: Request for Expedited Changes Circumstances Review'' (January 20, 2015) (''Second Supplemental Response'').

[4] For a complete description of the Scope of the Order, *see* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Preliminary Results of Changed Circumstances Review: Multilayered Wood Flooring from the People's Republic of China'' (''Preliminary Results Memo''), dated concurrently with, and adopted by, this notice.

circumstances sufficient to warrant a review.[5]

Therefore, in accordance with section 751(b)(1) of the Act and 19 CFR 351.216(d), the Department is initiating a changed circumstances review to determine whether Zhejiang Fuma is the successor-in-interest to Huzhou Fuma.

Preliminary Determination

When it concludes that expedited action is warranted, the Department may publish the notice of initiation and preliminary results for a changed circumstances review concurrently.[6] In this instance, because we have the information necessary on the record to make a preliminary finding, we find that expedited action is warranted, and are combining the notice of initiation and the notice of preliminary results in accordance with 19 CFR 351.221(c)(3)(ii).

In determining whether one company is the successor to another for purposes of applying the antidumping duty law, the Department examines a number of factors including, but not limited to, changes in (1) management, (2) production facilities, (3) suppliers, and (4) customer base.[7] While no one or several of these factors will necessarily provide a dispositive indication of succession, the Department will generally consider one company to be the successor to another company if its resulting operation is essentially the same as that of its predecessor.[8] Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the prior company, the Department will assign the new company the cash deposit rate of its predecessor.[9]

In its November 24, 2014 submission and December 31, 2014 and January 20, 2015 supplemental questionnaire responses, Zhejiang Fuma provided documentation demonstrating that Zhejiang Fuma is the successor-in-interest to Huzhou Fuma in that no major changes occurred with respect to management, production process, customer base, or suppliers.[10]

According to the information provided, Zhejiang Fuma is owned, managed and operated by the same ownership and management teams as Huzhou Fuma.[11] Zhejiang Fuma also provided documentation that there had been no material change in suppliers of inputs or services related to the production, sale and distribution of the subject merchandise.[12] Regarding its production of the subject merchandise, Zhejiang Fuma has stated that the production capacity, process and equipment of Zhejiang Fuma is identical to that of Huzhou Fuma and is located at the same facility.[13] Finally, Zhejiang Fuma has indicated that there has been no material change with its U.S. customer base or its sale of the subject merchandise.[14]

While Zhejiang Fuma indicated that the Coalition for Hardwood Parity, the Petitioner in the underlying investigation, did not object to Zhejiang Fuma's changed circumstances request, the Department has received no confirmation of this agreement. Nonetheless, based on a review of the record, we preliminarily find Zhejiang Fuma is the successor-in-interest to Huzhou Fuma and, as such, that it is entitled to Huzhou Fuma's cash-deposit rate with respect to entries.

Should our final results remain the same as these preliminary results, effective the date of publication of the final results, we will instruct U.S. Customs and Border Protection to assign entries of subject merchandise exported by Zhejiang Fuma the antidumping duty cash-deposit rate applicable to Huzhou Fuma.

Public Comment

Any interested party may request a hearing within 14 days of publication of this notice.[15] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.[16] Parties will be notified of the time and date of any hearing, if requested.

Interested parties may submit case briefs not later than 14 days after the date of publication of this notice.[17] Rebuttal briefs, which must be limited to issues raised in such briefs, may be filed not later than seven days after the due date for case briefs.[18] Parties who submit case briefs or rebuttal briefs in this changed circumstances review are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included.

All submissions, with limited exceptions, must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS'').[19] An electronically filed document must be received successfully in its entirety by 5 p.m. Eastern Time (''ET'') on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the APO/Dockets Unit in Room 1870 and stamped with the date and time of receipt by 5 p.m. ET on the due date.[20]

Consistent with 19 CFR 351.216(e), we will issue the final results of this changed-circumstances review no later than 270 days after the date on which this review was initiated or within 45 days of publication of these preliminary results if all parties agree to our preliminary finding.

We are issuing and publishing this initiation and preliminary results notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.221(c)(3).

Dated: February 3, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–02971 Filed 2–11–15; 8:45 am]

BILLING CODE 3510–DS–P

[5] *See* 19 CFR 351.216(d).

[6] *See* 19 CFR 351.221(c)(3)(ii).

[7] *See, e.g., Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Multilayered Wood Flooring From the People's Republic of China,* 79 FR 48117, 48118 (August 15, 2014), unchanged in *Multilayered Wood Flooring From the People's Republic of China: Final Results of Changed Circumstances Review,* 79 FR 58740 (September 30, 2014).

[8] *Id.*

[9] *See Notice of Final Results of Changed Circumstances Review: Polychloroprene Rubber from Japan,* 69 FR 67890 (November 22, 2004) citing, *Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Duty Administrative Review,* 57 FR 20460 (May 13, 1992); and, *Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Initiation of Antidumping Duty Changed Circumstance Review,* 70 FR 17063 (April 4, 2005).

[10] *See, generally,* CCR Request; Supplemental Response; Second Supplemental Response.

[11] *See* Preliminary Results Memo at 3.

[12] *Id.,* at 3–4.

[13] *Id.,* at 3.

[14] *Id.*

[15] The Department is exercising its discretion under 19 CFR 351.310(c) to alter the time limit for requesting a hearing.

[16] *See* 19 CFR 351.310(d).

[17] The Department is exercising its discretion under 19 CFR 351.309(c)(1)(ii) to alter the time limit for the filing of case briefs.

[18] The Department is exercising its discretion under 19 CFR 351.309(d)(1) to alter the time limit for the filing of rebuttal briefs.

[19] ACCESS is available to registered users at *https://access.trade.gov* and available to all parties in the Central Records Unit, Room 7046 of the main Department of Commerce building.

[20] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD Medicare-Eligible Retiree Health Care Board of Actuaries; Notice of Federal Advisory Committee Meeting

AGENCY: DoD.

ACTION: Meeting notice.

SUMMARY: The Department of Defense is publishing this notice to announce a meeting of the DoD Medicare-Eligible Retiree Health Care Board of Actuaries. This meeting will be open to the public.

DATES: Friday, July 31, 2015, from 10:00 a.m. to 12:00 p.m.

ADDRESSES: 4800 Mark Center Drive, Conference Room 18, Level B1, Alexandria, VA 22350.

FOR FURTHER INFORMATION CONTACT: Kathleen Ludwig at the Defense Human Resource Activity, DoD Office of the Actuary, 4800 Mark Center Drive, STE 05E22, Alexandria, VA 22350–7000. Phone: 571–372–1993. Email: *Kathleen.A.Ludwig.civ@mail.mil.*

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to execute the provisions of 10 U.S.C. chapter 56 (10 U.S.C. 1114 *et seq*). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of benefits under DoD retiree health care programs for Medicare-eligible beneficiaries.

Agenda

1. Meeting Objective

Approve actuarial assumptions and methods needed for calculating:

i. FY 2017 per capita full-time and part-time normal cost amounts
ii. September 30, 2014, unfunded liability (UFL)
iii. October 1, 2015, Treasury UFL amortization and normal cost payments

2. Trust Fund Update
3. Medicare-Eligible Retiree Health Care Fund Update
4. September 30, 2013, Actuarial Valuation Results
5. September 30, 2014, Actuarial Valuation Proposals
6. Decisions

Actuarial assumptions and methods needed for calculating:

a. FY 2017 per capita full-time and part-time normal cost amounts
b. September 30, 2014, unfunded liability (UFL)
c. October 1, 2015, Treasury UFL amortization and normal cost payments

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and the availability of space, this meeting is open to the public. Seating is on a first come basis. The Mark Center is an annex of the Pentagon. Those without a valid DoD Common Access Card must contact Kathleen Ludwig at 571–372–1993 no later than June 30, 2015. Failure to make the necessary arrangements will result in building access being denied. It is strongly recommended that attendees plan to arrive at the Mark Center at least 30 minutes prior to the start of the meeting.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Board about its mission and topics pertaining to this public meeting.

Committee's Designated Federal Officer or Point of Contact: Persons desiring to attend the DoD Medicare-Eligible Retiree Health Care Board of Actuaries meeting or make an oral presentation or submit a written statement for consideration at the meeting, must notify Kathleen Ludwig at (571) 372–1993, or *Kathleen.A.Ludwig.civ@mail.mil,* by June 30, 2015.

Dated: February 6, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–02872 Filed 2–11–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 2015 Diagnosis Related Group (DRG) Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of DRG revised rates.

SUMMARY: This notice describes the changes made to the TRICARE DRG-based payment system in order to conform to changes made to the Medicare Prospective Payment System (PPS). It also provides the updated fixed loss cost outlier threshold, cost-to-charge ratios, and the data necessary to update the FY 2015 rates.

DATES: *Effective Dates:* The rates, weights, and Medicare PPS changes which affect the TRICARE DRG-based payment system contained in this notice are effective for discharges occurring on or after October 1, 2014.

ADDRESSES: Defense Health Agency, TRICARE, Medical Benefits and Reimbursement Office, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: Amber L. Butterfield, Medical Benefits and Reimbursement Office, TRICARE, telephone (303) 676–3565.

Questions regarding payment of specific claims under the TRICARE DRG-based payment system should be addressed to the appropriate contractor.

SUPPLEMENTARY INFORMATION: The final rule published on September 1, 1987 (52 FR 32992) set forth the basic procedures used under the CHAMPUS DRG-based payment system. This was subsequently amended by final rules published August 31, 1988 (53 FR 33461); October 21, 1988 (53 FR 41331); December 16, 1988 (53 FR 50515); May 30, 1990 (55 FR 21863); October 22, 1990 (55 FR 42560); and September 10, 1998 (63 FR 48439).

An explicit tenet of these final rules, and one based on the statute authorizing the use of DRGs by TRICARE, is that the TRICARE DRG-based payment system is modeled on the Medicare PPS, and that, whenever practicable, the TRICARE system will follow the same rules that apply to the Medicare PPS. The Centers for Medicare and Medicaid Services (CMS) publishes these changes annually in the **Federal Register** and discusses in detail the impact of the changes.

In addition, this notice updates the rates and weights in accordance with our previous final rules. The actual changes we are making, along with a description of their relationship to the Medicare PPS, are detailed below.

I. Medicare PPS Changes Which Affect the TRICARE DRG-Based Payment System

Following is a discussion of the changes CMS has made to the Medicare PPS that affect the TRICARE DRG-based payment system.

A. DRG Classifications

Under both the Medicare PPS and the TRICARE DRG-based payment system, cases are classified into the appropriate DRG by a Grouper program. The Grouper classifies each case into a DRG on the basis of the diagnosis and procedure codes and demographic

information (that is, sex, age, and discharge status). The Grouper used for the TRICARE DRG-based payment system is the same as the current Medicare Grouper with two modifications. The TRICARE system has replaced Medicare DRG 435 with two age-based DRGs (900 and 901), and has implemented thirty-four (34) neonatal DRGs in place of Medicare DRGs 385 through 390. For admissions occurring on or after October 1, 2001, DRG 435 has been replaced by DRG 523. The TRICARE system has replaced DRG 523 with the two age-based DRGs (900 and 901). For admissions occurring on or after October 1, 1995, the CHAMPUS Grouper hierarchy logic was changed so the age split (age <29 days) and assignments to Major Diagnostic Category (MDC) 15 occur before assignment of the pre-MDC DRGs. This resulted in all neonate tracheostomies and organ transplants to be grouped to MDC 15 and not to DRGs 480–483 or 495. For admissions occurring on or after October 1, 1998, the CHAMPUS Grouper hierarchy logic was changed to move DRG 103 to the pre-MDC DRGs and to assign patients to pre-MDC DRGs 480, 103, and 495 before assignment to MDC 15 DRGs and the neonatal DRGs. For admissions occurring on or after October 1, 2001, DRGs 512 and 513 were added to the pre-MDC DRGs, between DRGs 480 and 103 in the TRICARE Grouper hierarchy logic. For admissions occurring on or after October 1, 2004, DRG 483 was deleted and replaced with DRGs 541 and 542, splitting the assignment of cases on the basis of the performance of a major operating room procedure. The description for DRG 480 was changed to ''Liver Transplant and/or Intestinal Transplant'', and the description for DRG 103 was changed to ''Heart/Heart Lung Transplant or Implant of Heart Assist System''. For FY 2007, CMS implemented classification changes, including surgical hierarchy changes. The TRICARE Grouper incorporated all changes made to the Medicare Grouper, with the exception of the pre-surgical hierarchy changes, which will remain the same as FY 2006. For FY 2008, Medicare implemented their Medicare-Severity DRG (MS–DRG) based payment system. TRICARE, however, continued with the Centers for Medicare and Medicaid Services DRG-based (CMS–DRG) payment system for FY 2008. For FY 2009, the TRICARE/CHAMPUS DRG-based payment system shall be modeled on the MS–DRG system, with the following modifications.

The MS–DRG system consolidated the 43 pediatric CMS DRGs that were defined based on age less than or equal to 17 into the most clinically similar MS–DRGs. In their Inpatient Prospective Payment System final rule for MS–DRGs, Medicare stated for their population these pediatric CMS DRGs contained a very low volume of Medicare patients. At the same time, Medicare encouraged private insurers and other non-Medicare payers to make refinements to MS–DRGs to better suit the needs of the patients they serve. Consequently, TRICARE finds it appropriate to retain the pediatric CMS–DRGs for our population. TRICARE is also retaining the TRICARE-specific DRGs for neonates and substance use.

For FY09, TRICARE will use the MS–DRG v26.0 pre-MDC hierarchy, with the exception that MDC 15 is applied after DRG 011–012 and before MDC 24.

For FY10, there are no additional or deleted DRGs.

For FY 11, the added DRGs and deleted DRGs are the same as those included in CMS' final rule published on August 16, 2010 (75 FR 50041–50677). That is, DRG 009 is deleted; DRGs 014 and 015 are being added.

For FY 12, the added DRGs and deleted DRGs are the same as those included in CMS' final rule published on August 18, 2011 (76 FR 51476–51846). That is, DRG 015 is deleted; DRGs 016 and 017 are being added.

For FY 2013 there are no new, revised, or deleted DRGs.

For FY 2014 there are no new, revised, or deleted DRGs.

For FY 2015 the added, deleted and revised DRGs are the same as those included in the CMS' final rule published on August 22, 2014, (79 FR 49853–50536), with the exception of endovascular cardiac valve replacement for which CMS added DRGs 266/267. The TRICARE Grouper already has DRGs 266/267 assigned to a pediatric procedure therefore TRICARE added DRGs 317/318, respectively, for endovascular cardiac valve replacement.

B. Wage Index and Medicare Geographic Classification Review Board Guidelines

TRICARE will continue to use the same wage index amounts used for the Medicare PPS. TRICARE will also duplicate all changes with regard to the wage index for specific hospitals that are redesignated by the Medicare Geographic Classification Review Board. In addition, TRICARE will continue to utilize the out commuting wage index adjustment.

C. Revision of the Labor-Related Share of the Wage Index

TRICARE is adopting CMS' percentage of labor related share of the standardized amount. For wage index values greater than 1.0, the labor related portion of the Adjusted Standardized Amount (ASA) shall continue to equal 69.6 percent. For wage index values less than or equal to 1.0 the labor related portion of the ASA shall continue to equal 62 percent.

D. Hospital Market Basket

TRICARE will update the adjusted standardized amounts according to the final updated hospital market basket used for the Medicare PPS for all hospitals subject to the TRICARE DRG-based payment system according to CMS' August 22, 2014, final rule. For FY 2015, the market basket is 2.9 percent. Note: Medicare's FY 2015 market basket index adjusts according to hospitals' compliance with quality data and electronic health record meaningful use submissions. These adjustments do not apply to the TRICARE Program.

E. Outlier Payments

Since TRICARE does not include capital payments in our DRG-based payments (TRICARE reimburses hospitals for their capital costs as reported annually to the contractor on a pass through basis), we will use the fixed loss cost outlier threshold calculated by CMS for paying cost outliers in the absence of capital prospective payments. For FY 2015, the TRICARE fixed loss cost outlier threshold is based on the sum of the applicable DRG-based payment rate plus any amounts payable for Indirect Medical Education (IDME) plus a fixed dollar amount. Thus, for FY 2015, in order for a case to qualify for cost outlier payments, the costs must exceed the TRICARE DRG base payment rate (wage adjusted) for the DRG plus the IDME payment (if applicable) plus $22,705 (wage adjusted). The marginal cost factor for cost outliers continues to be 80 percent.

F. National Operating Standard Cost as a Share of Total Costs

The FY 2015 TRICARE National Operating Standard Cost as a Share of Total Costs (NOSCASTC) used in calculating the cost outlier threshold is 0.922. TRICARE uses the same methodology as CMS for calculating the NOSCASTC; however, the variables are different because TRICARE uses national cost to charge ratios while CMS uses hospital specific cost to charge ratios.

G. Indirect Medical Education (IDME) Adjustment

Passage of the Medical Modernization Act of 2003 modified the formula multipliers to be used in the calculation of IDME adjustment factor. Since the IDME formula used by TRICARE does not include disproportionate share hospitals (DSHs), the variables in the formula are different than Medicare's, however; the percentage reductions that will be applied to Medicare's formula will also be applied to the TRICARE IDME formula. The multiplier for the IDME adjustment factor for TRICARE for FY 2015 is 1.02.

H. Cost to Charge Ratio

TRICARE uses a national Medicare cost-to-charge ratio (CCR). For FY 2015, the Medicare CCR used for the TRICARE DRG-based payment system for acute care hospitals and neonates will be 0.2726. This is based on a weighted average of the hospital-specific Medicare CCRs (weighted by the number of Medicare discharges) after excluding hospitals not subject to the TRICARE DRG system (Sole Community Hospitals, Indian Health Service hospitals, and hospitals in Maryland). The Medicare CCR is used to calculate cost outlier payments, except for children's hospitals. The Medicare CCR has been increased by a factor of 1.0065 to include an additional allowance for bad debt. The 1.0065 factor reflects the provisions of the Middle Class Tax Relief and Job Creation Act of 2012. For children's hospital cost outliers, the CCR used is 0.2939.

I. Pricing of Claims

The final rule published on May 21, 2014, (79 FR 29085–29088) set forth all final claims with discharge dates of October 1, 2014, or later and reimbursed under the TRICARE DRG-Based payment system, are to be priced using the rules, weights and rates in effect on as of the date of discharge. Prior to this, all final claims were priced using the rules, weights and rates in effective as of the date of admission.

J. Updated Rates and Weights

The updated rates and weights are accessible through the Internet at *http://www.tricare.mil/drgrates.* The implementing regulations for the TRICARE/CHAMPUS DRG-based payment system are in 32 CFR part 199.

Dated: February 6, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–02898 Filed 2–11–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE, Formerly Known as the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 2015 Mental Health Rate Updates

AGENCY: Department of Defense.

ACTION: Notice of updated mental health rates for Fiscal Year 2015.

SUMMARY: This notice provides the updated regional per-diem rates for low-volume mental health providers; the update factor for hospital-specific per-diems; the updated cap per-diem for high-volume providers; the beneficiary per-diem cost-share amount for low-volume providers; and the updated per-diem rates for both full-day and half-day TRICARE Partial Hospitalization Programs for Fiscal Year 2015.

DATES: *Effective Date:* The Fiscal Year 2015 rates contained in this notice are effective for services on or after October 1, 2014.

ADDRESSES: Defense Health Agency (DHA), Medical Benefits and Reimbursement Branch, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: Elan Green, Medical Benefits and Reimbursement Office, DHA, telephone (303) 676–3907.

SUPPLEMENTARY INFORMATION: The final rule published in the **Federal Register** (FR) on September 6, 1988 (53 FR 34285) set forth reimbursement changes that were effective for all inpatient hospital admissions in psychiatric hospitals and exempt psychiatric units occurring on or after January 1, 1989. The final rule published in the **Federal Register** on July 1, 1993 (58 FR 35400) set forth maximum per-diem rates for all partial hospitalization admissions on or after September 29, 1993. Included in these final rules were provisions for updating reimbursement rates for each federal Fiscal Year. As stated in the final rules, each per-diem shall be updated by the Medicare update factor for hospitals and units exempt from the Medicare Prospective Payment System (*i.e.,* this is the same update factor used for the inpatient prospective payment system). For Fiscal Year 2015, the market basket rate is 2.9 percent. This year, Medicare applied two reductions to its market basket amount: (1) A 0.5 percent reduction for economy-wide productivity required by section 3401(a) of the Patient Protection and Affordable Care Act (PPACA) which amended section 1886(b)(3)(B) of the Social Security Act, and (2) a 0.2 percent point adjustment as required by section 1886(b)(3)(B)(xii) of the Act as added and amended by sections 3401 and 10319(a) of the PPACA. These two reductions do not apply to TRICARE. Hospitals and units with hospital-specific rates (hospitals and units with high TRICARE volume) and regional-specific rates for psychiatric hospitals and units with low TRICARE volume will have their TRICARE rates for Fiscal Year 2015 updated by 2.9 percent.

Partial hospitalization rates for full-day programs also will be updated by 2.9 percent for Fiscal Year 2015. Partial hospitalization rates for programs of less than 6 hours (with a minimum of three hours) will be paid a per diem rate of 75 percent of the rate for a full-day program.

The cap amount for high-volume hospitals and units also will be updated by the 2.9 percent for Fiscal Year 2015.

The beneficiary cost share for low-volume hospitals and units also will be updated by the 2.9 percent for Fiscal Year 2015.

Per 32 CFR 199.14, the same area wage indexes used for the CHAMPUS Diagnosis-Related Group (DRG)-based payment system shall be applied to the wage portion of the applicable regional per-diem for each day of the admission. The wage portion shall be the same as that used for the CHAMPUS DRG-based payment system. For wage index values greater than 1.0, the wage portion of the regional rate subject to the area wage adjustment is 69.6 percent for Fiscal Year 2015. For wage index values less than or equal to 1.0, the wage portion of the regional rate subject to the area wage adjustment is 62.0 percent.

Additionally, 32 CFR 199.14 requires that hospital specific and regional per-diems shall be updated by the Medicare update factor for hospitals and units exempt from the Medicare prospective payment system.

The following reflect an update of 2.9 percent for Fiscal Year 2015.

REGIONAL-SPECIFIC RATES FOR PSYCHIATRIC HOSPITALS AND UNITS WITH LOW TRICARE VOLUME FOR FISCAL YEAR 2015

United States census region	Regional rate
Northeast:	
New England	$851
Mid-Atlantic	820
Midwest:	
East North Central	709
West North Central	669
South:	
South Atlantic	844
East South Central	902
West South Central	769
West:	
Mountain	768
Pacific	908
Puerto Rico	579

Beneficiary cost-share: Beneficiary cost-share (other than dependents of Active Duty members) for care paid on the basis of a regional per-diem rate is the lower of $224 per day or 25 percent of the hospital billed charges effective for services rendered on or after October 1, 2014. Cap Amount: Updated cap amount for hospitals and units with high TRICARE volume is $1,070 per day for services on or after October 1, 2014.

The following reflects an update of 2.9 percent for Fiscal Year 2015 for the full day partial hospitalization rates. Partial hospitalization rates for programs of less than 6 hours (with a minimum of three hours) will be paid a per diem rate of 75 percent of the rate for a full-day program.

PARTIAL HOSPITALIZATION RATES FOR FULL-DAY AND HALF-DAY PROGRAMS

[Fiscal year 2015]

United States census region	Full-day rate (6 hours or more)	Half-day rate (3–5 hours)
Northeast:		
New England (Maine, N.H., Vt., Mass., R.I., Conn.)	$341	$256
Mid-Atlantic:		
(N.Y., N.J., Penn.)	371	278
Midwest:		
East North Central (Ohio, Ind., Ill., Mich., Wis.)	327	245
West North Central:		
(Minn., Iowa, Mo., N.D., S.D., Neb., Kan.)	327	245
South:		
South Atlantic (Del., Md., DC, Va., W.Va., N.C., S.C., Ga., Fla.)	349	262
East South Central:		
(Ky., Tenn., Ala., Miss.)	379	284
West South Central:		
(Ark., La., Texas, Okla.)	379	284
West:		
Mountain (Mon., Idaho, Wyo., Col., N.M., Ariz., Utah, Nev.)	382	287
Pacific (Wash., Ore., Calif., Alaska, Hawaii)	376	282
Puerto Rico	244	183

The above rates are effective for services rendered on or after October 1, 2014.

Dated: February 6, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–02900 Filed 2–11–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Air University Board of Visitors Air Force Institute of Technology Subcommittee Meeting and Spring Committee Meeting

ACTION: Notice of Meeting of the Air University Board of Visitors Air Force Institute of Technology Subcommittee Meeting and Spring Committee Meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the Air University Board of Visitors' Air Force Institute of Technology (AFIT) Subcommittee annual meeting will take place on Monday, March 9th, 2015, from 8:00 a.m. to approximately 4:30 p.m. and Tuesday, March 10th, 2015, from 8:00 a.m. to approximately 3:00 p.m. The meeting will be held at AFIT on Wright-Patterson Air Force Base, Area B, in Dayton, Ohio. The purpose of this meeting is to provide independent advice and recommendations on matters

pertaining to the educational, doctrinal, and research policies and activities of the Air Force Institute of Technology.

In addition, the Air University Board of Visitors' spring meeting will take place on Wednesday, April 15th, 2015, from 8:00 a.m. to approximately 4:30 p.m. and Thursday, April 16th, 2015, from 8:00 a.m. to approximately 4:00 p.m. The meeting will be held in the Air University Senior Non-Commissioned Officer Academy (SNCOA) Conference Room, Building 1143 on Gunter 550 McDonald Street, Montgomery, AL. The purpose of this meeting is to provide independent advice and recommendations on matters pertaining to the educational, doctrinal, and research policies and activities of Air University. The agenda will include topics relating to the policies, programs, and initiatives of Air University educational programs and will include an out-brief from the Air Force Institute of Technology Subcommittee.

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155 all sessions of the Air University Board of Visitors' meetings will be open to the public. Any member of the public wishing to provide input to the Air University Board of Visitors should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Written statements can be submitted to the Designated Federal Officer at the address detailed below at any time. Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed below at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the Air University Board of Visitors until its next meeting. The Designated Federal Officer will review all timely submissions with the Air University Board of Visitors' Chairperson and ensure they are provided to members of the Board before the meeting that is the subject of this notice. Additionally, any member of the public wishing to attend this meeting should contact the person listed below at least five calendar days prior to the meeting for information on base entry passes.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa Arnold, Designated Federal Officer, Air University Headquarters, 55 LeMay Plaza South, Maxwell Air Force Base, Alabama 36112–6335, telephone (334) 953–2989.

Henry Williams Jr.,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2015–02907 Filed 2–11–15; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2015–ICCD–0015

Agency Information Collection Activities; Comment Request; Magnet Schools Assistance Program (MSAP) Annual Performance Report (APR)

AGENCY: Office of Innovation and Improvement (OII), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before April 13, 2015.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2015–ICCD–0015 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Anna Hinton, (202) 260–1816.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Magnet Schools Assistance Program (MSAP) Annual Performance Report (APR).

OMB Control Number: 1855–0025.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local and Tribal Governments.

Total Estimated Number of Annual Responses: 153.

Total Estimated Number of Annual Burden Hours: 77.

Abstract: The collection of this information is part of the government-wide effort to improve the performance and accountability of all federal programs, under the Government Performance and Results Act (GPRA) passed in 1993. Under GPRA, a process for using performance indicators to set program performance goals and to measure and report program results was established. To implement GPRA, ED developed GPRA measures at every program level to quantify and report program progress required by the Elementary and Secondary Education Act of 1965, as amended, Title V, Part C. The GPRA program level measures for the Magnet Schools Assistance Program (MSAP) are reported in the Annual Performance Report (APR). The APR is required under EDGAR §§ 74.51, 75.118, 75.590, and 80.40. The annual report provides data on the status of the funded project that corresponds to the scope and objectives established in the approved application and any amendments. Under EDGAR 75.118, the report must provide the most current

performance and financial information; to ensure that accurate and reliable GPRA measure data are reported to Congress on program implementation and performance outcomes, the MSAP APR collects the raw data from grantees in a consistent format to calculate these data in the aggregate.

Dated: February 9, 2015.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2015–02961 Filed 2–11–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board Quarterly Board Meeting

AGENCY: National Assessment Governing Board, U.S. Department of Education.

ACTION: Announcement of open and closed meetings.

SUMMARY: This notice sets forth the agenda for the March 5–7, 2015 Quarterly Meeting of the National Assessment Governing Board (hereafter referred to as Governing Board). This notice provides information to members of the public who may be interested in attending the meeting or providing written comments on the meeting. The notice of this meeting is required under Section 10(a)2) of the Federal Advisory Committee Act (FACA).

DATES: The Quarterly Board meeting will be held on the following dates:

March 5, 2015 from 11:30 a.m. to 6:00 p.m.; March 6, 2015 from 8:30 a.m. to 5:00 p.m.; March 7, 2015 from 7:30 a.m. to 12:00 p.m.

ADDRESSES: The Westin Crystal City, 1800 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Munira Mwalimu, Executive Officer, 800 North Capitol Street NW., Suite 825, Washington, DC 20002, telephone: (202) 357–6938, fax: (202) 357–6945.

SUPPLEMENTARY INFORMATION:

Statutory Authority and Function: The National Assessment Governing Board is established under Title III—National Assessment of Educational Progress Authorization Act, Public Law 107–279. Information on the Board and its work can be found at *www.nagb.gov.*

The Board is established to formulate policy for the National Assessment of Educational Progress (NAEP). The Board's responsibilities include the following: Selecting subject areas to be assessed, developing assessment frameworks and specifications, developing appropriate student achievement levels for each grade and subject tested, developing standards and procedures for interstate and national comparisons, improving the form and use of NAEP, developing guidelines for reporting and disseminating results, and releasing initial NAEP results to the public.

Detailed Meeting Agenda: March 5–March 7, 2015

March 5: Committee Meetings

Assessment Literacy Work Group: Open Session: 11:30 a.m.—4:00 p.m.

Executive Committee: Open Session: 4:30 p.m.–5:00 p.m.; Closed Session: 5:00 p.m.–5:55 p.m.; Open Session: 5:55 p.m.–6:00 p.m.

March 6: Full Board and Committee Meetings

Full Board: Open Session: 8:30 a.m.–9:45 a.m.; Closed Session 12:45 p.m.–1:45 p.m.; Open Session 2:00 p.m.–3:30 p.m.; Closed Session 3:45 p.m.–4:45 p.m.; Open Session 4:45 p.m.–5:00 p.m.

Committee Meetings

Reporting and Dissemination Committee (R&D): Open Session: 10:00 a.m.–12:30 p.m.

Committee on Standards, Design and Methodology (COSDAM): Open Session: 10:00 a.m.–12:30 p.m.

Assessment Development Committee (ADC): Open Session: 10:00 a.m.–11:30 p.m.; Closed Session: 11:30 a.m.–12:30 p.m.

March 7: Full Board and Committee Meetings

Nominations Committee: Closed Session: 7:30 a.m.–8:15 a.m.

Full Board: Closed Session: 8:30 a.m.–8:50 a.m. Open Session 8:50 a.m.–12:00 p.m.

On March 5, 2015, from 11:30 a.m. to 4:00 p.m., the Assessment Literacy Work Group will meet in open session to discuss assessment literacy strategies and timelines related to their work on supporting a better understanding of educational tests among parents, students, policy makers, and members of the general public.

The Board's Executive Committee will convene in open session on March 5, 2015 from 4:30 p.m. to 5:00 p.m. to review and discuss the March 6–7, 2015 Board meeting agenda, receive updates on the Executive Director recruitment process, NAEP budget, and reauthorization.

Following this session, the Executive Committee will meet in closed session from 5:00 p.m. to 5:55 p.m. to receive and discuss cost estimates on various options for implementing NAEP for 2014–2024 based on the President's FY 2016 budget request. The implications of the cost estimates and funds in support of the NAEP Assessment Schedule and future NAEP activities will also be discussed. This meeting must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the NAEP program by providing confidential cost details and proprietary contract costs of current contractors to the public. Discussion of this information would be likely to significantly impede implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of section 552b of Title 5 U.S.C.

The Executive Committee will then meet in open session from 5:55 p.m. to 6:00 p.m. to take action on the NAEP Schedule of Assessments.

On March 6, 2015, the full Board will meet in open session from 8:30 a.m. to 9:45 a.m. The Board will review and approve the March 6–7, 2015 Board meeting agenda and meeting minutes from the November 21–22, 2014 Quarterly Board meeting. This session will be followed by the Chairman's remarks. Thereafter, the Executive Director of the Governing Board will provide a report, followed by an update on the Institute of Education Sciences (IES) from the Acting Director and an update on NCES from the Acting Commissioner. The Board will recess for Committee meetings from 10:00 a.m. to 12:30 p.m.

The Reporting and Dissemination Committee and the Committee on Standards, Design and Methodology (COSDAM) will meet in open sessions from 10:00 a.m. to 12:30 p.m. to discuss their ongoing work and policy matters.

The Assessment Development Committee will meet in open session from 10:00 a.m. to 11:30 a.m. to discuss ongoing work and in closed session from 11:30 a.m. to 12:30 p.m. During the closed session, the Committee will receive a briefing on transitioning NAEP to digital based assessments. The briefing will be in-depth, with discussion of secure NAEP U.S. history, civics, and geography test questions at grades 8 and 12 and how those questions will be transitioned from a paper-and-pencil format to a digital-based platform for the 2018 NAEP operational assessment. This part of the meeting must be conducted in closed session because the items are to be used in NAEP assessments; public disclosure

of secure test items would significantly impede implementation of the NAEP assessment program if conducted in open session. Such matters are protected by exemption 9(B) of § 552b of Title 5 U.S.C.

Following the Committee meetings, the Board will convene in closed session from 12:45 p.m. to 1:45 p.m. to receive a briefing and discuss the NAEP 2012 grade 8 civics, geography, and U.S. history report cards. This part of the meeting must be conducted in closed session because results of these NAEP assessments have been embargoed and are not ready for public release. Public disclosure of this information would likely have an adverse technical and financial impact on the NAEP program. Discussion of this information would be likely to significantly impede implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of § 552b of Title 5 U.S.C.

On March 6, 2015 from 2:00 p.m. to 3:30 p.m., the Board will meet in open session to receive a briefing and discuss the NAEP Assessment of English Language Learners.

Thereafter, the Board will meet in closed session from 3:45 p.m. to 4:45 p.m. to review and discuss independent government costs estimates for subjects to be assessed under the proposed NAEP Schedule of Assessments. This session will be an in-depth briefing and discussion to examine specific costs for assessing NAEP subjects, including cost projections for moving NAEP to digital-based assessments, which will impact the NAEP schedule from 2016–2024. This part of the meeting must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the NAEP program by providing contractors attending the Board meeting an unfair advantage in procurement and contract negotiations for NAEP. Discussion of this information would be likely to significantly impede implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of § 552b of Title 5 U.S.C.

Following this closed session, from 4:45 p.m. to 5:00 p.m., the Board will meet in open session to take action on the NAEP Schedule of Assessments. The March 6, 2015 session will adjourn at 5:00 p.m.

On March 7, 2015, the Nominations Committee will meet in closed session from 7:30 a.m. to 8:15 a.m. to discuss candidates for the eight Board vacancies for terms beginning on October 1, 2015. The Committee's discussions pertain solely to internal personnel rules and practices of an agency and information of a personal nature where disclosure would constitute an unwarranted invasion of personal privacy. As such, the discussions are protected by exemptions 2 and 6 of § 552b(c) of Title 5 of the United States Code.

On March 7, 2015, the Board will meet in closed session from 8:30 a.m. to 8:50 a.m. to receive a briefing from the Nominations Committee on proposed candidates for Board vacancies for the October 1, 2015 Board term. These discussions pertain solely to internal personnel rules and practices of an agency and information of a personal nature where disclosure would constitute an unwarranted invasion of personal privacy. As such, the discussions are protected by exemptions 2 and 6 of § 552b(c) of Title 5 of the United States Code.

From 8:50 a.m. to 9:00 a.m., the Board will take action on the proposed 2015 slate of finalists for the eight Board positions.

From 9:15 a.m. to 10:30 a.m., the Board will discuss a strategic planning initiative in open session. Following this session, from 10:45 a.m. to 12:00 p.m. the Board will receive reports from the standing committees and the Assessment Literacy Work Group. The Board will take action on committee recommendations to include action on a proposed release plan for the 2014 NAEP Report Cards in civics, geography, and U.S. history.

From 11:45 a.m. to 12:00 p.m., the Board will preview plans for the upcoming May 2015 quarterly Board meeting. The March 7, 2015 meeting is scheduled to adjourn at 12:00 p.m.

Access to Records of the Meeting: Pursuant to FACA requirements, the public may also inspect the meeting materials at *www.nagb.gov* on Friday, March 6, 2015 by 9:00 a.m. ET. The official verbatim transcripts of the public meeting sessions will be available for public inspection no later than 30 calendar days following the meeting.

Reasonable Accommodations: The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Public Law 107–279, Title III—National Assessment of Educational Progress § 301.

Dated: February 9, 2015.

Munira Mwalimu,

Executive Officer, National Assessment Governing Board (NAGB), U.S. Department of Education.

[FR Doc. 2015–02969 Filed 2–11–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Extension of Public Comment Period, Draft Environmental Impact Statement for the Plains & Eastern Clean Line Transmission Project

AGENCY: Department of Energy.

ACTION: Extension of public comment period.

SUMMARY: The U.S. Department of Energy (DOE) published a notice of availability and public hearing on December 17, 2014 and a correction on December 29, 2014 that provided for a comment period ending March 19, 2015. DOE is extending the public comment period for the *Draft Environmental Impact Statement for the Plains & Eastern Clean Line Transmission Project* (DOE/EIS–0486) to April 20, 2015.

DATES: DOE extends the public comment period to April 20, 2015. Comments submitted to DOE concerning the Plains & Eastern EIS prior to this announcement do not need to be resubmitted as a result of this extension of the comment period.

ADDRESSES: Written comments on the Draft EIS may be provided on the EIS

Web site at *http://www.plainsandeasterneis.com* (preferred) or addressed to Plains & Eastern EIS, 216 16th Street, Suite 1500, Denver, Colorado 80202; via email to *comments@PlainsandEasternEIS.com;* or by facsimile to (303) 295–2818. Please mark envelopes and email subject lines as *Plains & Eastern Draft EIS Comments.*

FOR FURTHER INFORMATION CONTACT: Jane Summerson, Ph.D., DOE NEPA Document Manager on behalf of the Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, NNSA, PO Box 391 Building 401, Kirtland Air Force Base East, Albuquerque, NM 87185; email at *Jane.Summerson01@nnsa.doe.gov*; or phone (505) 845–4091.

SUPPLEMENTARY INFORMATION: On December 17, 2014, DOE published a notice of availability and public hearing (79 FR 75132) and on December 29, 2014, DOE published a correction (79 FR 78079) that announced that comments on the Plains & Eastern EIS should be submitted within a 90-day period beginning on December 19, 2014 and ending on March 19, 2015. DOE is extending the time allowed for submittal of comments to April 20, 2015.

Issued in Washington, DC, on February 6, 2015.

Patricia A. Hoffman,

Principal Deputy Assistant Secretary, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2015–02947 Filed 2–11–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. RF–042]

Decision and Order Granting a Waiver to GE Appliances From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedures

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of the decision and order in Case No. RF–042 that grants to GE Appliances (GE) a waiver from the DOE electric refrigerator and refrigerator-freezer test procedures for determining the energy consumption of the specific residential refrigerator-freezer basic models set forth in GE's petition for waiver. Under today's decision and order, GE shall be required to test and rate these refrigerator-freezer basic models, which use dual compressors, using an alternate test procedure that takes this technology into account when measuring energy consumption.

DATES: This Decision and Order is effective February 12, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–5B, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *Bryan.Berringer@ee.doe.gov*.

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants GE a waiver from the applicable residential refrigerator and refrigerator-freezer test procedures found in 10 CFR part 430, subpart B, appendix A for certain basic models of refrigerator-freezers with dual compressors, provided that GE tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits GE from making representations concerning the energy efficiency of these products unless the product has been tested in a manner consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results.

Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products.

Issued in Washington, DC, on February 6, 2015.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: GE Appliances (Case No. RF–042)

I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Pub. L. 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the residential electric refrigerators and refrigerator-freezers that are the focus of this notice.[1] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results measuring energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for residential electric refrigerators and refrigerator-freezers is set forth in 10 CFR part 430, subpart B, appendix A.

The regulations set forth in 10 CFR 430.27 contain provisions that enable a person to seek a waiver from the test procedure requirements for covered products. DOE will grant a waiver if it is determined that the basic model for which the petition for waiver was submitted contains one or more design characteristics that prevents testing of the basic model according to the prescribed test procedures, or if the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(f)(2). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. The Assistant Secretary may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(l).

DOE also may grant a petitioning manufacturer with an interim waiver from the test procedure requirements when such relief is sought. 10 CFR 430.27(e)(2). Within one year of issuance of an interim waiver, DOE will either: (i) Publish in the **Federal Register** a determination on the petition for waiver; or (ii) publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver. 10 CFR 430.27(h)(1). When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. 10 CFR 430.27(h)(2).

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

II. GE's Petition for Waiver: Assertions and Determinations

On June 27, 2014, GE submitted a petition for waiver from the test procedure applicable to residential electric refrigerators and refrigerator-freezers set forth in 10 CFR part 430, subpart B, appendix A. See 79 FR 55775 (Sept. 17, 2014). GE is seeking a waiver because it is developing new refrigerator-freezers that incorporate a dual-compressor design that GE believes is not properly accounted for in DOE's final rule published on April 21, 2014 (78 FR 22320), which amended the test procedure for refrigerators and refrigerator freezers in Appendix A. In its petition, GE seeks a waiver from the new DOE test procedure applicable to refrigerators and refrigerator-freezers under 10 CFR part 430 for two dual-compressor system basic models. Information provided by GE indicate that these basic models demonstrate non-uniform cycling of their compressors, which prevents the verification of two criteria in the Appendix A test procedure—to ensure (a) that the first part of the test comprises a period of stable operation, and (b) that the second part of the test (used to measure the energy use contribution of the defrost cycle(s)) both starts and ends during periods of stable operation.

DOE previously granted a similar waiver to GE through a Decision and Order (78 FR 38699 (June 27, 2013)) under Case No. RF–029 pertaining to 10 CFR part 430, subpart B, appendix A1. DOE also granted similar waivers to Sub-Zero (77 FR 5784 (February 6, 2012)), LG (77 FR 18327 (March 26, 2013)); and Samsung (78 FR 35899 (June 14, 2013)) and (79 FR 19884 (April 10, 2014)).

In its April 2014 final rule, DOE incorporated provisions to address the testing of products with multiple compressors, which were intended to obviate the need for waivers for multiple-compressor products such as the ones previously granted to GE and others, if these products are tested using the new Appendix A. However, in its petition for waiver, GE contended that due to certain characteristics of the basic models listed in the petition, the Appendix A test procedure does not accurately measure the energy consumption of these basic models. Specifically, GE claimed that requirements in the Appendix A test procedure that were included to ensure (a) that the first part of the test comprise a period of stable operation, and (b) that the second part of the test (used to measure the energy use contribution of the defrost cycle(s)) both starts and ends during periods of stable operation—cannot be applied to these basic models, because their compressor cycles do not repeat uniformly, which is one of the assumptions built into the test procedure.

In lieu of using Appendix A, GE has submitted an alternate test procedure to account for the energy consumption of its refrigerator-freezer models with dual compressors. GE's alternative test is essentially the same as the test for multiple-compressor products with automatic defrost in section 4.2.3 of Appendix A, except that: (a) The test period for the first part of the test would not be required to meet the requirements for evaluating stable operation provided in section 1.22 of Appendix A; (b) the second part of the test would have a minimum duration—this would be at least 24 hours, unless a second defrost (other than the target defrost captured within the test period) occurs before the end of 24 hours, in which case, the test period duration would be at least 18 hours; (c) the start of the second part of the test would occur ''at the end of a regular freezer compressor on-cycle after the previous defrost occurrence'' rather than during a period of stable operation as defined in section 1.22 of Appendix A; and (d) the end of the second part of the test would occur ''at the end of a freezer compressor on-cycle before the next defrost occurrence'' rather than during a period of stable operation as defined in section 1.22 of Appendix A.

GE believes its alternate test procedure will allow for the accurate measurement of the energy use of these products, which GE contends is not achieved by the current Appendix A test procedure. Specifically, due to the non-uniform compressor cycles of this product, which prevent consistent application of the requirements provided in section 1.22 of Appendix A for evaluating the stable operation of a tested unit, the alternative test would not explicitly impose these stable operation requirements. Based on the information provided by GE, the variation in test results associated with different selections of test periods would be insignificant as long as the test starts after the 24-hour stabilization period, which is required both by the Appendix A test procedure and the alternative test procedure suggested by GE. Further, GE's alternative test's minimum duration for the second part of the test would also not significantly affect the results.

Although not explicitly stated in the alternative test method, or in GE's petition, DOE understands the term ''stable operation'' used in the petition to have a different meaning than the same term as used in Appendix A, since the alternative test method does not use the same stability criteria. In this case, DOE understands ''stable operation'' to mean operation after steady-state conditions have been achieved but excluding any defrost cycles or events associated with a defrost cycle, such as precooling or recovery, and that this term would apply in the same way for the first and second parts of the test. DOE understands the term also to mean operation in which the average rate of change of compartment temperatures is zero or very close to zero. These temperatures may fluctuate around representative average temperatures as the compressors cycle on and off, but over several compressor cycles, these average compartment temperatures would not significantly change. The key difference in this interpretation of stable operation as compared with the definition in Appendix A is that it involves neither assignment of a specific maximum rate of change of the average temperature nor specification of a method to verify that operation is stable. DOE further notes that this particular use of the term ''stable operation'' is limited solely to the basic models that are the subject of this waiver, as DOE has verified using information provided by GE about the actual operational characteristics of these models that such a test is appropriate in this limited case.

GE also requested an interim waiver from the existing DOE test procedure, which DOE granted. See 79 FR 55776. An interim waiver may be granted if it is determined that the applicant will experience economic hardship if the application for interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. See 10 CFR 430.27(e)(2).

As noted previously, DOE recently addressed multiple compressor products in its April 21, 2014 final rule. In considering GE's petition for waiver, DOE sought additional details about the specific operating characteristics of the products that are the subject of the petition in order to determine whether they cannot be tested using the section of the amended test procedure that was adopted specifically to address such products. GE indicated in its petition that the compressors serving the fresh food and freezer compartments of these models have non-synchronous cycles that do not repeat uniformly, which prevents these models from achieving

the temperature stability conditions specified in the Appendix A test procedure. To better understand GE's claim and the issues raised in the petition, DOE requested data regarding the operational characteristics of these products, which GE provided. DOE was specifically concerned that the use of GE's proposed test method could present the risk of truncation error in the energy use measurement or the possibility of variation between separate tests of the same unit due to temperature drift in the compartments or differences in the operational state of the compressors at the beginning or end of the test period. The data provided by GE indicated that these models demonstrate non-uniform cycling that makes direct use of the Appendix A requirements for evaluating temperature stability problematic—these requirements may be appropriate for some operating modes of the basic models, but not for other operating modes. The data also showed that the use of GE's proposed test method is unlikely to result in significant variation in test measurements for these particular models on the basis of the selected test period. DOE notes, however, that these conclusions are limited to the models listed in GE's petition based upon the data provided by GE and that other basic models may demonstrate operating characteristics that differ from these models, making this alternative test method inappropriate for measuring their energy use. Should DOE receive petitions for waiver requesting use of the alternative test identified in this notice for other basic models, DOE may request from the manufacturer information about the operation of those basic models that would demonstrate that their energy use can be accurately measured using this alternative test and that such models cannot in fact be tested using the currently assigned test method in Appendix A.

DOE has reviewed the alternate procedure and believes that it will allow for the accurate measurement of the energy use of these products, while alleviating the testing problems associated with GE's implementation of a dual compressor system. DOE did not receive any comments on the GE petition.

III. Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the GE petition for waiver. The FTC staff did not have any objections to granting a waiver to GE.

IV. Conclusion

After careful consideration of all the material that was submitted by GE and consultation with the FTC staff, it is ordered that:

(1) The petition for waiver submitted by GE Appliances (Case No. RF–042) is hereby granted as set forth in the paragraphs below.

(2) GE shall be required to test and rate the following GE models according to the alternate test procedure set forth in paragraph (3) of this section.

ZIC30*****

ZIK30*****

(3) GE shall be required to test the products listed in paragraph (2) above according to the test procedures for electric refrigerator-freezers prescribed by DOE at 10 CFR part 430, appendix A, except that, for the GE products listed in paragraph (2) of this section only, the energy consumption shall be determined as follows:

$$ET = (1440 \times EP1/T1) + \sum_{i=1}^{D} [(EP2_i - (EP1 \times T2_i/T1)) \times (12/CT_i)]$$

Where:

—ET is the test cycle energy (kWh/day);

—1440 = number of minutes in a day

—EP1 is the dual compressor energy expended during the first part of the test (If at least one compressor cycles, the test period for the first part of the test shall include a whole number of complete primary compressor cycles comprising at least 24 hours of stable operation, unless a defrost occurs prior to completion of 24 hours of stable operation, in which case the first part of the test shall include a whole number of complete primary compressor cycles comprising at least 18 hours of stable operation);

—T1 is the length of time for EP1 (minutes);

—D is the total number of compartments with distinct defrost systems;

—i is the variable that equals to 1, 2 or more that identifies the compartment with distinct defrost system;

—EP2i is the total energy consumed during the second (defrost) part of the test being conducted for compartment i. (kWh);

—T2i is the length of time (minutes) for the second (defrost) part of the test being conducted for compartment i.

—12 = conversion factor to adjust for a 50% run-time of the compressor in hours/day

—CTi is the compressor on time between defrosts for only compartment i. CTi for compartment i with long time automatic defrost system is calculated as per 10 CFR part 430, subpart B, Appendix A clause 5.2.1.2. CTi for compartment i with variable defrost system is calculated as per 10 CFR part 430 subpart B, Appendix A clause 5.2.1.3. (hours rounded to the nearest tenth of an hour).

Stabilization: The test shall start after a minimum 24 hours stabilization run for each temperature control setting.

Test Period for EP2i, T2i: EP2i includes precool, defrost, and recovery time for compartment i, as well as sufficient dual compressor cycles to allow T2i to be at least 24 hours, unless a defrost occurs prior to completion of 24 hours, in which case the second part of the test shall include a whole number of complete primary compressor cycles comprising at least 18 hours. The test period shall start at the end of a regular freezer compressor on-cycle after the previous defrost occurrence (refrigerator or freezer). The test period also includes the target defrost and following freezer compressor cycles, ending at the end of a freezer compressor on-cycle before the next defrost occurrence (refrigerator or freezer).

Test Measurement Frequency: Measurements shall be taken at regular interval not exceeding 1 minute.

* * *

(4) Representations. GE may make representations about the energy use of its dual compressor refrigerator-freezer products for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(l).

(6) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

(7) This waiver applies only to those basic models set out in GE's June 27, 2014 petition for waiver. Grant of this

waiver does not release a petitioner from the certification requirements set forth at 10 CFR part 429.

Issued in Washington, DC, on February 6, 2015.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2015–02952 Filed 2–11–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. RF–040]

Decision and Order Granting a Waiver to Sub-Zero From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedures

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of the decision and order in Case No. RF–040 that grants to Sub-Zero Group, Inc. a waiver from the DOE electric refrigerator and refrigerator-freezer test procedures for determining the energy consumption of residential refrigerator-freezers. Sub-Zero's request pertains to the specific hybrid refrigerated ''storage-wine storage'' basic models set forth in its petition. Sub-Zero seeks permission to use an alternate test procedure to test the wine chiller compartment of these devices at 55 °F instead of the prescribed temperature of 39 °F. That procedure would apply a K factor (correction factor) value of 0.85 when calculating the energy consumption of a tested model and replace the energy consumption calculation. Under today's decision and order, Sub-Zero shall be required to test and rate the hybrid refrigerated ''storage-wine storage'' basic models identified in its petition using an alternate test procedure that takes the nature of these products into account when measuring energy consumption.

DATES: This Decision and Order is effective February 12, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–5B, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *Bryan.Berringer@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–33, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants Sub-Zero a waiver from the applicable residential refrigerator and refrigerator-freezer test procedures found in 10 CFR part 430, subpart B, appendix A for certain basic models of hybrid refrigerated ''storage-wine storage,'' provided that Sub-Zero tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits Sub-Zero from making representations concerning the energy efficiency of these products unless the product has been tested in a manner consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results.

Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products.

Issued in Washington, DC, on February 4, 2015.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Sub-Zero Group, Inc. (Case No. RF–040)

I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Pub. L. 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the residential electric refrigerators and refrigerator-freezers that are the focus of this notice.[1] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results measuring energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for residential electric refrigerators and refrigerator-freezers is set forth in 10 CFR part 430, subpart B, appendix A.

The regulations set forth in 10 CFR 430.27 contain provisions that enable a person to seek a waiver from the test procedure requirements for covered products. DOE will grant a waiver if it is determined that the basic model for which the petition for waiver was submitted contains one or more design characteristics that prevents testing of the basic model according to the prescribed test procedures, or if the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(f)(2). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption. DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(f)(2). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(l).

DOE may also grant a petitioning manufacturer with an interim waiver from the test procedure requirements when such relief is sought. 10 CFR 430.27(e)(2). Within one year of issuance of an interim waiver, DOE will either: (i) Publish in the **Federal Register** a determination on the petition for waiver; or (ii) publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver. 10 CFR 430.27(h)(1). When DOE amends the test procedure to address the issues presented in a waiver, the waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance. 10 CFR 430.27(h)(2).

II. Sub-Zero's Petition for Waiver: Assertions and Determinations

On May 19, 2014, Sub-Zero submitted a petition for waiver from the test procedure applicable to residential electric refrigerators and refrigerator-freezers set forth in 10 CFR part 430, subpart B, appendix A. See 79 FR 55772 (Sept. 17, 2014). In its petition, Sub-Zero explained that it is unable to certify a hybrid refrigerator basic model (*i.e.,* refrigerators that have a combination of one or more refrigerated storage compartments and a wine storage compartment) as compliant with DOE's energy conservation standards without a waiver. Sub-Zero asserted that the DOE test procedure does not contain a method to test these types of hybrid

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

products in a manner that would ''truly represent the energy-consumption characteristics of these products'' and offered an alternate test procedure that Sanyo E&E Corporation (Sanyo), now Panasonic Appliances Refrigeration Systems Corporation of America (PAPRSA), used in prior waiver requests. See 77 FR 49443 (Aug. 16, 2012) and 78 FR 57139 (Sept. 17, 2013). (On October 4, 2012, a correction notice to the August 16, 2012 Decision and Order was published. See 77 FR 60688.) These earlier decisions incorporated a K factor (correction factor) value of 0.85 when calculating the energy consumption of a tested model (77 FR 60688). Sub-Zero requested that it be permitted to apply the same procedure when testing the energy usage of its hybrid refrigerated storage-wine storage models.

Against this background, DOE had previously issued guidance in 2011 that clarified the test procedures to be used for hybrid products such as the Sub-Zero models at issue. That guidance is available at the following link: *http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/hybridwinechiller_faq2_2011-02-10.pdf.* The guidance specifies that basic models that do not have a separate wine storage compartment with a separate exterior door, such as those models identified in Sub-Zero's petition, are to be tested using the DOE test procedure in Appendix A, with the temperatures specified therein. Sub-Zero's waiver request seeks to replace the application of this general guidance with the more recent and specific approach outlined in determinations for similar hybrid products offered by Sanyo and PAPRSA when measuring the efficiency of these products.

Sub-Zero also requested an interim waiver from the existing DOE test procedure, which DOE granted. See 79 FR at 55774. An interim waiver may be granted if it is determined that the applicant will experience economic hardship if the application for interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination of the petition for waiver. See 10 CFR 430.27(e)(2).

DOE did not receive any comments on the Sub-Zero petition. However, on January 16, 2015, Sub-Zero via email to DOE indicated that there was an error in their waiver submission pertaining to the Wine Energy equation which had a set of parentheses missing and should be the same equation as requested by Panasonic Appliances Refrigeration Systems Corporation of America (PAPRSA) in the Extension of Waiver (Case No. RF–041) published in the **Federal Register** on September 17, 2014. 79 FR 55769. DOE has reviewed the alternate procedure and believes that it will allow for the accurate measurement of the energy use of these products, while alleviating the testing problems associated with Sub-Zero's hybrid refrigerator basic model.

III. Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the Sub-Zero petition for waiver. The FTC staff did not have any objections to granting a waiver to Sub-Zero.

IV. Conclusion

After careful consideration of all the material that was submitted by Sub-Zero and consultation with the FTC staff, it is ordered that:

(1) The petition for waiver submitted by Sub-Zero Group, Inc. (Case No. RF–040) is hereby granted as set forth in the paragraphs below.

(2) Sub-Zero shall be required to test and rate the following Sub-Zero models according to the alternate test procedure set forth in paragraph (3) below.

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(3) Sub-Zero shall be required to test the products listed in paragraph (2) above according to the test procedures for electric refrigerator-freezers prescribed by DOE at 10 CFR part 430, appendix A, except that, for the Sub-Zero product listed in paragraph (2) only, with a standardized temperature for the wine chiller compartment of 55 °F, instead of the prescribed 39 °F. Sub-Zero shall also use the K factor (correction factor) value of 0.85 when calculating the energy consumption of the model listed and calculate the energy consumption of this model as follows:

Energy consumption is defined by the higher of the two values calculated by the following two formulas (according to 10 CFR part 430, subpart B, Appendix A):

Energy consumption of the wine compartment:

$$E_{Wine} = (ET1 + [(ET2 - ET1) \times (55\ °F - TW1)/(TW2 - TW1)]) \times 0.85$$

Energy consumption of the refrigerated beverage compartment:

$$E_{Refrigerated\ Compartment} = ET1 + [(ET2 - ET1) \times (39\ °F - TRC1)/(TRC2 - TRC1)].$$

(4) Representations. Sub-Zero may make representations about the energy use of its hybrid refrigerated ''storage-wine storage'' products for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(l).

(6) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

(7) This waiver applies only to those basic models set out in Sub-Zero's May 19, 2014 petition for waiver. Grant of this waiver does not release a petitioner from the certification requirements set forth at 10 CFR part 429.

Issued in Washington, DC, on February 4, 2015.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2015–02985 Filed 2–11–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2503–154]

Duke Energy Carolinas, LLC; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major License.

b. *Project No.:* 2503–154.

c. *Date filed:* August 27, 2014.

d. *Applicant:* Duke Energy Carolinas, LLC.

e. *Name of Project:* Keowee-Toxaway Hydroelectric Project.

f. *Location:* The existing Keowee-Toxaway Project is located on the Toxaway, Keowee, and Little Rivers in Oconee County and Pickens County, South Carolina and Transylvania County, North Carolina. The Keowee-

Toxaway Project occupies no federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)—825(r).

h. *Applicant Contact:* Jennifer Huff, Duke Energy Carolinas, LLC, 526 S. Church Street, Charlotte, NC 28202; Telephone (980) 373–4392.

i. *FERC Contact:* Stephen Bowler, Telephone (202) 502–6861, and email *stephen.bowler@ferc.gov*.

j. *Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2503–154.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. The Keowee-Toxaway Project consists of two developments: The upstream, 710.1–MW Jocassee Development and the downstream, 157.5-megawatt (MW) Keowee Development owned by Duke Energy Carolinas, LLC. The Jocassee Development includes: A 385-foot-high, 1,800-foot-long main earthfill dam with top elevation at 1,125 feet above mean sea level (msl); two circular intake structures passing water to two water conveyance tunnels leading to four turbines; two saddle dikes (825 feet and 500 feet in length); a partially-open powerhouse just downstream of the dam containing four reversible pump-turbine units authorized for an installed capacity of 177.5 MW each; a 50-foot-wide, concrete, ogee-type spillway with two Taintor gates; a 230-kilovolt (kV) transmission system; and appurtenant facilities. The maximum hydraulic capacity is 36,200 cfs.

The Jocassee Development is operated as a pumped-storage project, with the pump-turbines used for generating power during peak demand periods (typically during the day), and for pumping water back through the tunnels to Lake Jocassee (typically during the night). The pumps have a capacity of 32,720 cfs. The Jocassee Development is also the lower lake for the 1,065 MW Bad Creek Hydroelectric Project No. 2740, which is also owned by Duke Energy Carolinas, LLC, but is not part of this relicensing.

The Keowee Development includes: A 165-foot-high, 3,500-foot-long earthfill dam impounding the Keowee River, and a 165-foot-high, 1,800-foot-long earthfill dam impounding the Little River; four saddle dikes (1,900 feet, 225 feet, 350 feet, and 650 feet in length); an intake dike at the Oconee Nuclear Station; a 176-foot wide, concrete, ogee-type spillway with four Taintor gates; a concrete intake structure leading to two penstocks; a concrete powerhouse at the base of Keowee dam containing two Francis-type, mixed flow turbine-generator units authorized for an installed capacity of 78.8 MW each; a 150-foot by 500-foot concrete tailrace; a 230-kV transmission system; and appurtenant facilities. The maximum hydraulic capacity is 24,920 cfs.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''PRELIMINARY TERMS AND CONDITIONS,'' or ''PRELIMINARY FISHWAY PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

o. *Procedural Schedule:*

The application will be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Filing of recommendations, preliminary terms and conditions, and preliminary fishway prescriptions.	April 2015.
Commission issues Draft EA	October 2015.
Comments on Draft EA	November 2015.
Modified Terms and Conditions.	January 2016.
Commission Issues Final EA	March 2016.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

q. A license applicant must file no later than 60 days following the date of issuance of the notice of acceptance and ready for environmental analysis provided for in 5.22: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: February 5, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–02935 Filed 2–11–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–70–000]

Regency Field Services, LLC; Notice of Application

Take notice that on January 23, 2015, Regency Field Services, LLC (RFS), 2001 Bryan St., Suite 3700, Dallas, Texas 75201, filed in Docket No. CP15–70–000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations, requesting: (i) A certificate of public convenience and necessity authorizing RFS to own, operate and maintain its Beaver Residue Line, located in Beaver County, Oklahoma, for the purpose of transporting its own natural gas; (ii) a blanket certificate, pursuant to Part 157, Subpart F, of the Commission's regulations; (iii) waivers of certain regulatory requirements; and (iv) confirmation that the Commission's assertion of jurisdiction over the Beaver Residue Line will not jeopardize the non-jurisdictional status of RFS's otherwise non-jurisdictional gathering and processing facilities and operations.

The Beaver Residue line is a 13 mile, 12-inch diameter natural gas residue pipeline, that transports RFS's own natural gas to the pipeline system of Southern Star Central Gas Pipeline, Inc., all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document.

Any questions regarding this application should be directed to Ms. Deena L. Jordan, Chief Compliance Officer, Regency Field Services, LLC, 2001 Bryan Street, Suite 3700, Dallas, Texas 75201, by telephone at (214) 840–5812 or by email at *deena.jordan@regencygas.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and five copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: February 26, 2015.

Dated: February 5, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–02934 Filed 2–11–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC15–68–000.

Applicants: Samchully Power & Utilities 1 LLC.

Description: Application for Authorization for Disposition of

Jurisdictional Facilities and Request for Expedited Action of Samchully Power & Utilities 1 LLC.

Filed Date: 2/5/15.

Accession Number: 20150205–5223.

Comments Due: 5 p.m. ET 2/26/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–1605–000.

Applicants: NV Energy, Inc.

Description: eTariff filing per 35.19a(b): NVE Refund Report to be effective N/A.

Filed Date: 2/6/15.

Accession Number: 20150206–5170.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–523–001.

Applicants: Duke Energy Progress, Inc., Duke Energy Florida, Inc., Duke Energy Carolinas, LLC.

Description: Tariff Amendment per 35.17(b): Answer to Deficiency Letter ER15–523 to be effective 4/1/2015.

Filed Date: 2/6/15.

Accession Number: 20150206–5111.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–611–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment per 35.17(b): 2015–02–06_SA 1926 Amended METC-Consumers 5th Rev. D–TIA to be effective 1/1/2015.

Filed Date: 2/6/15.

Accession Number: 20150206–5213.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–631–001.

Applicants: Crawfordsville Energy, LLC.

Description: Tariff Amendment per 35.17(b): Amended Application for Market Based Rate to be effective 4/6/2015.

Filed Date: 2/6/15.

Accession Number: 20150206–5048.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–992–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 4076; Queue No. Z1–098 to be effective 1/6/2015.

Filed Date: 2/5/15.

Accession Number: 20150205–5130.

Comments Due: 5 p.m. ET 2/26/15.

Docket Numbers: ER15–993–000.

Applicants: PJM Interconnection, L.L.C.

Description: Information Filing of List of Immediate-need Reliability Projects submitted on behalf of PJM Interconnection, L.L.C.

Filed Date: 1/30/15.

Accession Number: 20150130–5457.

Comments Due: 5 p.m. ET 2/20/15.

Docket Numbers: ER15–994–000.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing per 35: Revisions to OATT 13.7 per Order 890—Unreserved Use Penalties to be effective 2/5/2015.

Filed Date: 2/5/15.

Accession Number: 20150205–5178.

Comments Due: 5 p.m. ET 2/26/15.

Docket Numbers: ER15–995–000.

Applicants: Verso Androscoggin LLC.

Description: Compliance filing per 35: Amendment to Market-Based Rate Tariff to be effective 4/6/201.

Filed Date: 2/5/15.

Accession Number: 20150205–5189.

Comments Due: 5 p.m. ET 2/26/15.

Docket Numbers: ER15–996–000.

Applicants: Verso Androscoggin Power LLC.

Description: Compliance filing per 35: Amendment to Market-Based Rate Tariff to be effective 4/6/2015.

Filed Date: 2/5/15.

Accession Number: 20150205–5190.

Comments Due: 5 p.m. ET 2/26/15.

Docket Numbers: ER15–997–000.

Applicants: Verso Maine Energy LLC.

Description: Compliance filing per 35: Amendment to Market-Based Tariff to be effective 4/6/2015.

Filed Date: 2/5/15.

Accession Number: 20150205–5205.

Comments Due: 5 p.m. ET 2/26/15.

Docket Numbers: ER15–998–000.

Applicants: Southwestern Public Service Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015–2–6_SPS–GSEC–NPEC-Chaparral-675–NOC-Filing to be effective 1/14/2015.

Filed Date: 2/6/15.

Accession Number: 20150206–5049.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–999–000.

Applicants: Luke Paper Company.

Description: Compliance filing per 35: Amendment to Market-Based Rate Tariff to be effective 4/7/2015.

Filed Date: 2/6/15.

Accession Number: 20150206–5102.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–1000–000.

Applicants: NewPage Energy Services, LLC.

Description: Compliance filing per 35: Amendment to Market-Based Rate Tariff to be effective 4/7/2015.

Filed Date: 2/6/15.

Accession Number: 20150206–5114.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–1001–000.

Applicants: Tucson Electric Power Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Concurrence to San Juan Project Participation Agreement to be effective 7/1/2014.

Filed Date: 2/6/15.

Accession Number: 20150206–5125.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–1002–000.

Applicants: Southern California Edison Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): LGIA for Willow Springs Solar, LLC to be effective 2/7/2015.

Filed Date: 2/6/15.

Accession Number: 20150206–5127.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–1003–000.

Applicants: Consolidated Water Power Company.

Description: Compliance filing per 35: Amendment to Market-Based Rate Tariff to be effective 4/7/2015.

Filed Date: 2/6/15.

Accession Number: 20150206–5130.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–1004–000.

Applicants: ITC Midwest LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): CIAC Agreement with Garden Wind to be effective 4/7/2015.

Filed Date: 2/6/15.

Accession Number: 20150206–5136.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–1005–000.

Applicants: Consolidated Water Power Company.

Description: Compliance filing per 35: Amendment to Market-Based Rate Tariff to be effective 4/7/2015.

Filed Date: 2/6/15.

Accession Number: 20150206–5137.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–1006–000.

Applicants: ITC Midwest LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): CIAC Agreement with Story County Wind to be effective 4/6/2015.

Filed Date: 2/6/15.

Accession Number: 20150206–5138.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–1007–000.

Applicants: Escanaba Paper Company.

Description: Compliance filing per 35: Amendment to Market-Based Rate Tariff to be effective 4/7/2015.

Filed Date: 2/6/15.

Accession Number: 20150206–5193.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–1008–000.

Applicants: AEP Generation Resources Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Wheeling Power Supply Agreement Cancellation to be effective 1/31/2015.

Filed Date: 2/6/15.

Accession Number: 20150206–5194.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–1009–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): MR1 Rev Forward Reserve Obligation Charge in Forward Reserve Market to be effective 6/1/2015.

Filed Date: 2/6/15.

Accession Number: 20150206–5195.

Comments Due: 5 p.m. ET 2/27/15.

Docket Numbers: ER15–1010–000.

Applicants: New York Independent System Operator, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): NYISO 205 filing tariff revision Regulation Movement Multiplier provision to be effective 4/7/2015.

Filed Date: 2/6/15.

Accession Number: 20150206–5214.

Comments Due: 5 p.m. ET 2/27/15.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RD15–3–000.

Applicants: North American Electric Reliability Corp.

Description: Petition of the North American Electric Reliability Corporation for Approval of Proposed Reliability Standards PRC–004–2.1(i)a, PRC–004–4, PRC–005–2(i), PRC–005–3(i), and VAR–002–4.

Filed Date: 2/6/15.

Accession Number: 20150206–5169.

Comments Due: 5 p.m. ET 3/9/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 6, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–02936 Filed 2–11–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP11–1711–000.

Applicants: Texas Gas Transmission, LLC.

Description: Compliance filing per 154.501: 2014 Cash Out Filing.

Filed Date: 1/30/15.

Accession Number: 20150130–5019.

Comments Due: 5 p.m. ET 2/11/15.

Docket Numbers: RP15–420–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) rate filing per 154.204: 02/02/15 Negotiated Rates—ConEdison Energy Inc. (HUB) 2275–89 to be effective 2/1/2015.

Filed Date: 2/2/15.

Accession Number: 20150202–5111.

Comments Due: 5 p.m. ET 2/17/15.

Docket Numbers: RP15–421–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) rate filing per 154.204: 02/02/15 Negotiated Rates—Mercuria Energy Gas Trading LLC (HUB) 7540–89 to be effective 1/31/2015.

Filed Date: 2/2/15.

Accession Number: 20150202–5113.

Comments Due: 5 p.m. ET 2/17/15.

Docket Numbers: RP15–422–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) rate filing per 154.204: 02/02/15 Negotiated Rates—Sequent Energy Management (HUB) 3075–89 to be effective 2/1/2015.

Filed Date: 2/2/15.

Accession Number: 20150202–5114.

Comments Due: 5 p.m. ET 2/17/15.

Docket Numbers: RP15–423–000.

Applicants: Gulf South Pipeline Company, LP.

Description: § 4(d) rate filing per 154.204: Amendment to Neg Rate Agmt (Chevron 41610–5) to be effective 2/1/2015.

Filed Date: 2/2/15.

Accession Number: 20150202–5118.

Comments Due: 5 p.m. ET 2/17/15.

Docket Numbers: RP15–424–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) rate filing per 154.204: 02/02/15 Negotiated Rates—Trafigura Trading LLC (HUB) 7445–89 to be effective 1/30/2015.

Filed Date: 2/2/15.

Accession Number: 20150202–5120.

Comments Due: 5 p.m. ET 2/17/15.

Docket Numbers: RP15–425–000.

Applicants: Rockies Express Pipeline LLC.

Description: § 4(d) rate filing per 154.204: Neg Rate 2015–02–02 Mieco to be effective 2/1/2015.

Filed Date: 2/2/15.

Accession Number: 20150202–5232.

Comments Due: 5 p.m. ET 2/17/15.

Docket Numbers: RP15–426–000.

Applicants: Northern Natural Gas Company.

Description: § 4(d) rate filing per 154.204: 20150202 Negotiated Rate to be effective 2/3/2015.

Filed Date: 2/2/15.

Accession Number: 20150202–5257.

Comments Due: 5 p.m. ET 2/17/15.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP15–271–001.

Applicants: Columbia Gas Transmission, LLC.

Description: Compliance filing per 154.203: Negotiated & Non-Conforming Service Agmt—PacSum Compliance Filing to be effective 1/1/2015.

Filed Date: 2/2/15.

Accession Number: 20150202–5254.

Comments Due: 5 p.m. ET 2/17/15.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 3, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–02953 Filed 2–11–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR15–16–000.

Applicants: Public Service Company of Colorado.

Description: Tariff filing per 284.123(b)(1)(ii): PSCo SOR Filing—Gas to be effective 1/1/2015; TOFC: 980.

Filed Date: 1/29/15.

Accession Number: 20150129–5267.

Comments Due: 5 p.m. ET 2/19/15.

284.123(g) Protests Due:

Docket Numbers: PR15–17–000.

Applicants: Regency Intrastate Gas LP.

Description: Tariff filing per 284.123(b)(2) + (g): Petition for Rate Approval & Revised SOC to be effective 2/1/2015; TOFC: 1310.

Filed Date: 2/2/15.

Accession Number: 20150202–5000.

Comments Due: 5 p.m. ET 2/23/15.

284.123(g) Protests Due: 5 p.m. ET 4/3/15.

Docket Numbers: PR15–18–000.

Applicants: Southern California Gas Company.

Description: Tariff filing per 284.123(b)(1) + (g): Baseline Statement of Operating Conditions to be effective 2/2/2015; TOFC: 1330.

Filed Date: 2/2/15.

Accession Number: 20150202–5251.

Comments Due: 5 p.m. ET 2/23/15.

284.123(g) Protests Due: 5 p.m. ET 4/3/15.

Docket Numbers: RP15–427–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) rate filing per 154.204: 02/03/15 Negotiated Rates—ConEdison Energy Inc. (HUB) 2275–89 to be effective 2/2/2015.

Filed Date: 2/3/15.

Accession Number: 20150203–5122.

Comments Due: 5 p.m. ET 2/17/15.

Docket Numbers: RP15–428–000.

Applicants: Midcontinent Express Pipeline LLC.

Description: § 4(d) rate filing per 154.204: Removal of Expired Agreements to be effective 3/6/2015.

Filed Date: 2/3/15.

Accession Number: 20150203–5127.

Comments Due: 5 p.m. ET 2/17/15.

Docket Numbers: RP15–429–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) rate filing per 154.204: 02/03/15 Negotiated Rates—Trafigura Trading LLC (HUB) 7445–89 to be effective 2/2/2015.

Filed Date: 2/3/15.

Accession Number: 20150203–5132.

Comments Due: 5 p.m. ET 2/17/15.

Docket Numbers: RP15–430–000.

Applicants: Northern Natural Gas Company.

Description: § 4(d) rate filing per 154.204: 20150203 Negotiated Rate Correction Filing to be effective 2/1/2015.

Filed Date: 2/3/15.

Accession Number: 20150203–5136.

Comments Due: 5 p.m. ET 2/17/15.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 4, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–02954 Filed 2–11–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–3723–005]

Magill, David W.; Notice of Filing

Take notice that on February 5, 2015, David W. Magill submitted for filing, an application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act (FPA), 16 U.S.C. 825(b) and Part 45 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR part 45.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on February 26, 2015.

Dated: February 6, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–02937 Filed 2–11–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–7590–000]

Atwood, Donald G.; Notice of Filing

Take notice that on February 5, 2015, Donald G. Atwood submitted for filing, an application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act (FPA), 16 U.S.C. 825(b) and Part 45 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR part 45.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214).

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on February 26, 2015.

Dated: February 6, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–02938 Filed 2–11–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2662–022]

FirstLight Hydro Generating Company; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Recreation Plan pursuant to Article 416.

b. *Project No:* 2662–022.

c. *Date Filed:* November 14, 2014 and supplemented on January 22, 2015.

d. *Applicant:* FirstLight Hydro Generating Company.

e. *Name of Project:* Scotland Hydroelectric Project.

f. *Location:* The project is located on the Shetucket River, in Windham County, Connecticut.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Richard T. Laudenat, P.E., Plant Manager, FirstLight Power Resources, LLC, 143 West Street Suite E, New Milford, CT 06776, (860)–350–3617.

i. *FERC Contact:* Krista Sakallaris at (202) 502–6302, *Krista.Sakallaris@ferc.gov*.

j. *Deadline for filing comments, motions to intervene, and protests:* March 9, 2015.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (p-2662–022) on any comments, motions, or recommendations filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee's recreation plan proposes to relocate the existing tailrace fishing access area from the east bank of the Shetucket River (river), as required by Article 416, to the west bank of the river. The proposed change in location is due to the presence of an existing railroad that runs parallel to the shoreline. The railroad prohibits the public from to crossing railroad property to access the east bank for fishing due to safety concerns. Consequently, the informal path to the river has been closed. If the recreation plan is approved, the licensee would relocate the tailrace fishing access area to the tailrace section on the west bank of the river. The new site would be accessible to the public by watercraft only. The licensee is proposing this location to keep the fishing access area within the tailrace and to maintain the characteristics of its previously provided area.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person

commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: February 5, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–02929 Filed 2–11–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7518–016]

Erie Boulevard Hydropower, L.P.; Saint Regis Mohawk Tribe; Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

On November 27, 2013, Erie Boulevard Hydropower, L.P. (Erie or transferor) and the Saint Regis Mohawk Tribe (Tribe or transferee) filed an application to transfer the license for the Hogansburg Hydroelectric Project No. 7518, located on the St. Regis River in Franklin County, New York. That same day, the Tribe (as a prospective licensee) filed an application to surrender the project license and to decommission and remove the project dam. On January 21, 2015, Erie and the Tribe filed a letter requesting that the Commission construe their November 27, 2013 filings as a request to partially transfer the license for the Hogansburg Project to add the Tribe as a co-licensee.

Erie and the Tribe now contemplate a two-step process where the Tribe would first become a co-licensee, and would subsequently surrender the license and decommission the project facilities, with Erie remaining a co-licensee. This notice applies only to the partial transfer request. If the partial transfer is approved, the Commission will solicit comments and review the surrender and decommissioning request in a separate proceeding.

Applicant Contacts: For Transferor: Mr. John A. Whittaker, IV, Winston & Strawn LLP, 1700 K Street NW., Washington, DC 20006, Phone: 202–282–5766, Email: *jwhittker@winston.com*. For Transferee: Mr. John J. Privitera, McNamee, Lochner, Titus & Williams, P.C., 677 Broadway, Albany, NY 12207, Phone: 518–447–3200, Email: *privitera@mltw.com*.

FERC Contact: Patricia W. Gillis, (202) 502–8735.

Deadline for filing comments, motions to intervene, and protests: 30 days from the date that the Commission issues this notice. The Commission strongly encourages electronic filing. Please file motions to intervene, comments, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–7518–016.

Dated: February 6, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–02933 Filed 2–11–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9821–105]

Trafalgar Power, Inc., Ampersand Ogdensburg Hydro, LLC; Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

On January 27, 2015, Trafalgar Power, Inc. (transferor) and Ampersand Ogdensburg Hydro, LLC (transferee) filed an application for transfer of license of the Ogdensburg Hydroelectric Project, FERC No. 9821. The project is located on the Oswegatchie River in St. Lawrence County, New York.

The applicants seek Commission approval to transfer the license for the Ogdensburg Project from the transferor to the transferee.

Applicant Contact: For Transferor: Mr. Arthur Steckler, President, Trafalgar Power, Inc., 11010 Lake Grove Blvd., Suite 100, Box 353, Morrisville, NC 27560–7392. For Transferee: Mr. Lutz Loegters, Ampersand Ogdensburg Hydro, LLC, c/o Ampersand Hydro, LLC, 717 Atlantic Avenue, Suite 1A, Boston, MA 02111.

FERC Contact: Patricia W. Gillis, (202) 502–8735.

Deadline for filing comments, motions to intervene, and protests: 30 days from the date that the Commission issues this notice. The Commission strongly encourages electronic filing. Please file motions to intervene, comments, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–9821–105.

Dated: February 5, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–02930 Filed 2–11–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF15–1–000]

PennEast Pipeline Company, LLC; Notice of Revised Public Scoping Meetings for the Penneast Pipeline Project

On January 13, 2015, the Federal Energy Regulatory Commission (FERC or Commission) issued a *Notice of Intent to Prepare an Environmental Impact Statement for the Planned PennEast Pipeline Project, Requests for Comments on Environmental Issues, and Notice of Public Scoping Meetings* (NOI). On January 23 and 26, 2015, we issued notices to postpone the January 27 and 28, 2015 public scoping meetings listed in the NOI. The revised dates for the scoping meetings are:

When: Wednesday, February 25, 2015.
Time: 6 p.m.
Where: West Trenton Ballroom, 40 W. Upper Ferry Road, West Trenton, New Jersey 08628.

When: Thursday, February 26, 2015.
Time: 6 p.m.

Where: The Grand Colonial, 86 Route 173 West, Hampton, New Jersey 08827.

These public meetings will be posted on the Commission calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information. Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link and the project docket number (*i.e.,* PF15–1).

Dated: February 5, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–02932 Filed 2–11–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14253–003]

Lock+ Hydro Friends Fund IV; Notice of Successive Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 20, 2015, the Lock+ Hydro Friends Fund IV filed an application for a successive preliminary permit under section 4(f) of the Federal Power Act proposing to study the feasibility of the proposed USACE MSR LD 17 Project No. 14253–003, to be located at the existing Mississippi River Lock and Dam No. 17 on the Mississippi River, near the city of New Boston, in Mercer County, Illinois and Louisa County, Iowa. The Mississippi River Lock and Dam No. 17 is owned by the United States government and operated by the Army Corps of Engineers. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of: (1) Three new 109-foot-wide by 40-foot-high steel lock frame modules each containing ten 650-kilowatt hydropower turbines having a total combined generating capacity of 19.5 megawatts; (2) one new 109-foot-wide and one new 220-foot-wide tailrace extending 75–150 feet downstream; (3) a new 25-foot by 50-foot switchyard; (4) a new intake structure of undetermined size; (5) a new 6-mile-long, 69-kilovolt transmission line; and (6) appurtenant facilities. The project would have an estimated annual generation of 119,655 megawatt-hours.

Applicant Contact: Mr. Wayne F. Krouse, P.O. Box 43796, Birmingham, AL 35243; (877) 556–6566, extension 709.

FERC Contact: Tyrone A. Williams, (202) 502–6331.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14253–003.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14253) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: February 5, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–02931 Filed 2–11–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Provo River Project Rate Order No. WAPA–165

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Rate Order Concerning a Formula Rate.

SUMMARY: Western Area Power Administration (Western) extends, on an interim basis, the existing Provo River Project Formula Rate through March 31, 2020. The existing Formula Rate under Rate Order No. WAPA–149 expires on March 31, 2015. The Formula Rate will be in effect until the Federal Energy Regulatory Commission (FERC) places it into effect on a final basis or until it is replaced by another rate.

DATES: This action is effective April 1, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn C. Jeka, Colorado River Storage Project (CRSP) Manager, CRSP Management Center, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111–1580, telephone (801) 524–6372, email: *jeka@wapa.gov,* or Mr. Rodney Bailey, Power Marketing Manager, CRSP Management Center, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111–1580, telephone (801) 524–4007, email: *rbailey@wapa.gov.*

SUPPLEMENTARY INFORMATION: By Delegation Order No. 00–037.00A, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to FERC. This extension is issued pursuant to Delegation Order No. 00–37.00A and Department of Energy (DOE) rate extension procedures at 10 CFR 903.23(a).

Under Delegation Order No. 0204–108 and existing DOE procedures for public participation in rate adjustments at 10 CFR part 903, Western's Provo River Formula Rate was submitted to FERC for confirmation and approval on February 2, 2010. The Provo River Formula Rate, Rate Order No. WAPA–149, was approved for 5 years beginning April 1, 2010, and ending March 31, 2015.

The Provo River Project, which includes Deer Creek Dam on the Provo River in Utah, was authorized in 1935. Construction of the dam began in 1938 and was completed in 1951. The Deer Creek Powerplant was authorized on August 20, 1951; construction began in 1956 and was completed in 1958; generation began that same year. Its maximum operating capacity is 5,200 kilowatts.

The Provo River Project's power is sold according to a marketing plan that was published in the **Federal Register** on November 21, 1994 (59 FR 60010).

This marketing plan allows Western to sell the output of the Provo River Project to Utah Municipal Power Agency, Utah Associated Municipal Power Systems, and Heber Light and Power (Customers) in the Provo River drainage area.

Contract Nos. 94–SLC–0253, 94–SLC–0254, and 07–SLC–0601 between the United States and Customers require that each fiscal year (FY) a new annual installment be calculated in advance by Western and submitted to the Customers on or before August 31 of the year preceding the applicable FY. Each FY Western prepares a power repayment study, which includes estimates of operation, maintenance, and replacement costs for the Deer Creek Powerplant. The annual installment is adjusted on or before August 31 of the year preceding the FY to which it pertains, and Western identifies this amount in contract revisions. Each annual installment pays the amortized portion of the United States' investment in the Deer Creek hydroelectric facilities, with interest, and the associated operation, maintenance, and administrative costs. This repayment schedule is not dependent upon the capacity and associated energy made available for sale each year.

Rate extensions are authorized under 10 CFR 903.23. Rates previously confirmed and approved by FERC for which no adjustment is contemplated may be extended by the Deputy Secretary on an interim basis following notice of proposed extension at least 30 days before expiration. On October 6, 2014, Western published a notice of proposed extension in the **Federal Register** [(79 FR 60153)].

Following review of Western's proposal within DOE, I hereby approve, on an interim basis, Rate Order No. WAPA–165, which extends, without adjustment, the existing Formula Rate through March 31, 2020. Rate Order No. WAPA–165 will be submitted to FERC for confirmation and approval on a final basis.

Dated: February 4, 2015.

Elizabeth Sherwood-Randall,

Deputy Secretary.

Department of Energy

Deputy Secretary

In the matter of:

Western Area Power Administration Formula Rate for the Provo River Project

Rate Order No. WAPA–165

Order Confirming, Approving, and Placing the Formula Rate for the Provo River Project Into Effect on an Interim Basis

Section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152) transferred to and vested in the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), and other acts that specifically apply to the project involved.

By Delegation Order No. 00-037.00A, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to the Administrator of Western Area Power Administration (Western); (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). This extension is issued pursuant to the Delegation Order and DOE rate extension procedures at 10 CFR 903.23(a).

Background

On November 2, 2010, FERC confirmed and approved the existing Formula Rate for the Provo River Project under Rate Order No. WAPA–149.[1] FERC approved this Rate Order for 5 years beginning April 1, 2010, through March 31, 2015. On October 6, 2014, pursuant to 10 CFR 903.23(a), Western filed a notice in the **Federal Register** proposing to extend, without adjustment, Provo River Project's Formula Rate as Rate Order No. WAPA–165.[2] Consistent with its regulations at 10 CFR 903.23(a), Western did not hold a consultation and comment period; however, the customers were notified of Western's intent to extend the current Formula Rate during the Provo River Project Annual Customer Meeting on April 22, 2014, and later through certified letter. Western has received notifications from the customers through letter and email that they wish to have Western extend the Provo River Project Formula Rate.

[1] See U.S. Dept. of Energy, Western Area Power Admin., Docket No, EF10–5–000, 133 FERC ¶ 62,112 (2010).

[2] See 79 FR 60153 (October 6, 2014).

Discussion

The Provo River Project's Formula Rate under Rate Order No. WAPA–149 expires on March 31, 2015. Contract Nos. 94–SLC–0253, 94–SLC–0254, and 07–SLC–0601 between the United States and customers require that each fiscal year (FY) a new annual installment be calculated in advance by Western and submitted to the customers on or before August 31 of the year preceding the appropriate FY. Each FY Western prepares a power repayment study, which includes estimates of operation, maintenance, and replacement costs for the Deer Creek Powerplant. The annual installment is adjusted on or before August 31 of the year preceding the FY to which it pertains, and Western identifies this amount in contract revisions. Each annual installment pays the amortized portion of the United States' investment in the Deer Creek hydroelectric facilities, with interest, and the associated operation, maintenance, and administrative costs. This repayment schedule is not dependent upon the capacity and associated energy made available for sale each year.

There is no adjustment to the Formula Rate for the extension period, April 1, 2015, through March 31, 2020. The forecasted revenue for the extension period is $2,017,986 with an increase of approximately $218,060 from the prior rate period, due mostly to projected turbine replacements. The data is projected 6 years because FY 2015 is an estimate used for the current FY 2015 annual installment.

Order

In view of the foregoing and under the authority delegated to me, I confirm, approve, and place into effect on an interim basis an extension of the Formula Rate, effective April 1, 2015. The Formula Rate shall remain in effect on an interim basis, pending FERC's confirmation and approval of this or a substitute Formula Rate on a final basis, through March 31, 2020.

Dated: February 4, 2015

Elizabeth Sherwood-Randall

Deputy Secretary

[FR Doc. 2015–02981 Filed 2–11–15; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9922–16–OW]

Transfer of the California Safe Drinking Water Program From the California Department of Public Health to the California State Water Resources Control Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document informs the public that the California Drinking Water Program has been transferred from the California Department of Public Health to the California State Water Resources Control Board.

DATES: This transfer became effective under California legislation on July 1, 2014, and was certified to the EPA by the California Attorney General on August 7, 2014.

FOR FURTHER INFORMATION CONTACT: Luis Garcia-Bakarich, Drinking Water Management Section (WTR3–1); Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105; telephone number: (415) 972–3237; email address: *garcia-bakarich.luis@epa.gov*.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the State of California enacted legislation (SB 861) that transfers to the California State Water Resources Control Board the authority, duties, powers, purposes, functions, responsibilities, and jurisdiction of the California Department of Public Health for the purposes of the administration of the California Safe Drinking Water Act programs effective July 1, 2014.

Background

The California Safe Drinking Water Act provides for the operation of public water systems and imposes various duties and responsibilities for the regulation and control of drinking water in the State of California including enforcing provisions of the federal Safe Drinking Water Act. The program transfer under SB 861 included all elements of the approved regulatory program as well as administration of the Drinking Water State Revolving Fund and the Environmental Laboratory Accreditation Program. An interagency agreement between the California State Water Resources Control Board and the California Department of Public Health was established for assuring the availability of drinking water laboratory services pursuant to 40 CFR 142.10 (b)(4).

40 CFR 142.17(a)(1) requires the State to notify the Administrator of the EPA of any State-initiated program changes and of any transfer of all or part of its program from the approved State agency to another State agency. On August 7, 2014, the California Attorney General certified to the EPA that the ''[t]ransfer of California's authority to carry out the Safe Drinking Water Program from the California Department of Public Health to the California State Water Resources Control Board has been effectuated by SB 861 (Stats. 2014, ch. 35, §§ 62, 63, 127, 182).'' The Attorney General's certification confirmed that the laws and regulations of California to carry out the Safe Drinking Water Program remain in effect, and further stated that ''[i]n accordance with the Safe Drinking Water Act as amended, and 40 CFR 142.12(c)(1)(iii), the statutes and regulations of the State of California to carry out the Safe Drinking Water Act have been duly adopted and are enforceable under California law and the California State Constitution.''

The Attorney General's certification further confirmed that the California State Water Resources Control Board has regulatory and enforcement authority over drinking water standards and water systems under California Health and Safety Code section 116271.

The State of California was first granted primary enforcement responsibility for public water systems under section 1413 of the Safe Drinking Water Act on June 2, 1978 (43 FR 25180, June 9, 1978).

Dated: January 30, 2015.

Michael Montgomery,

Acting Director, Water Division, EPA Region 9.

[FR Doc. 2015–02926 Filed 2–11–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[WC Docket No. 05–25; DA 15–66]

Wireline Competition Bureau Issues Subpoena to Providers Responding to the Special Access Data Collection

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Wireline Competition Bureau (Bureau) issues an administrative subpoena requiring providers of special access services to submit customer-related information sought in the special access data collection.

DATES: The deadline for businesses responding to the subpoena/collection with more than 1,500 employees is January 29, 2015. The deadline for business required to respond to this subpoena/collection with 1,500 or fewer employees is February 27, 2015.

ADDRESSES: Providers are instructed to submit the requested information/documents using the Special Access Web Portal created for the electronic filing of information and certifications in response to the special access data collection, available at *https://specialaccessfiling.fcc.gov/spadc/login.* In the event files are too large to deliver via the Special Access Web Portal, contact Christopher Koves, *Christopher.Koves@fcc.gov* to coordinate hand delivery to the Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Christopher Koves at *Christopher.Koves@fcc.gov* or 202–418–8209.

SUPPLEMENTARY INFORMATION: This is a summary of the Public Notice, WC Docket 05–25, RM 10593, DA 15–66, released January 16, 2015. This document does not contain information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified ''information collection burden[s] for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002. The full text of this document may be downloaded at the following Internet address: *https://apps.fcc.gov/edocs_public/attachmatch/DA-15-66A1.pdf.* The complete text maybe purchased from Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554. To request alternative formats, for persons with disabilities (*e.g.* accessible format documents, sign language, interpreters, CARTS, etc.), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 or (202) 418–0432 (TTY).

On January 16, 2015, the Bureau issued an administrative subpoena ordering providers of special access service in areas where the incumbent local exchange carrier is subject to price cap regulation to submit the customer-related data sought in the special access data collection. The subpoena addresses concerns raised the National Cable and Telecommunications Association (NCTA) and United States Telecom Association (USTelecom) about the application of Federal privacy statues when responding to the collection with customer information.

NCTA and USTelcom in *ex parte* filings asked the Bureau to issue an administrative subpoena requiring providers of special access services to submit documents in response to the collection to remove uncertainty regarding providers' obligations under the Electronic Communications Privacy Act (ECPA) and Sections 222 and 631 of the Communications Act (the Act) while providing the Commission with information requested in the collection.

The Bureau issues this subpoena to remove any uncertainty as to the obligations of respondents to produce the customer information sought in the collection consistent with ECPA and with sections 222 and 631 of the Act. Accordingly, providers must produce any and all documents providing the customer-related information sought by the Commission in the data collection. Providers are instructed to utilize the Special Access Web Portal created for the submission of electronic information and certification in response to the special access data collection, available at *https://specialaccessfiling.fcc.gov/spadc/login.* In the event files are too large to deliver via the Special Access Web Portal, contact Christopher Koves, *Christopher.Koves@fcc.gov* to coordinate hand delivery to the Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. The filing deadline for businesses required to respond to this Subpoena with more than 1,500 employees is January 29, 2015. The filing deadline for businesses required to respond to this Subpoena with 1,500 or fewer employees is February 27, 2015.

Federal Communications Commission.

Lynne Engledow,

Assistant Chief, Pricing Policy Division, Wireline Competition Bureau.

[FR Doc. 2015–02991 Filed 2–11–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before April 13, 2015.

ADDRESSES: You may submit comments, identified by FR H–4 and FR 3076, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street (between 18th and 19th Streets NW.) Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer, Shagufta Ahmed, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Acting Clearance Officer, John Schmidt, Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on

- whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility
- the accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- ways to enhance the quality, utility, and clarity of the information to be collected;
- ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Report

Report title: Recordkeeping Requirements Associated with Real Estate Appraisal Standards for Federally Related Transactions Pursuant to Regulations H and Y.

Agency form number: FR H–4.

OMB control number: 7100–0250.

Frequency: Event-generated.

Reporters: State Member Banks (SMBs) and nonbank subsidiaries of Bank Holding Companies (BHCs).

Estimated annual reporting hours: SMBs, 31,820 hours; nonbank subsidiaries of BHCs, 11,813 hours.

Estimated average hours per response: SMBs, 0.25; nonbank subsidiaries of BHCs, 0.25.

Number of respondents: SMBs, 860; nonbank subsidiaries of BHCs, 613.

General description of report: The recordkeeping requirements of this information collection are mandatory (12 U.S.C. 3339). Since the Federal Reserve does not collect this information, confidentiality is not generally an issue. However, if the Federal Reserve were to collect a copy of the appraisal report during an examination, the documents could be exempt from disclosure under FOIA (5 U.S.C. 552(b)(4) and (b)(8)).

Abstract: For federally related transactions, Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) requires SMBs and BHCs with credit-extending nonbank subsidiaries to use appraisals prepared in accordance with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation. Generally, these standards include the methods and techniques used to analyze a property as well as the requirements for reporting such analysis and a value conclusion in the appraisal. SMBs and BHCs with credit-extending nonbank subsidiaries are expected to maintain records that demonstrate that appraisals used in their real estate-related lending activities comply with these regulatory requirements. There is no formal reporting form.

Proposal To Approve Under OMB Delegated Authority the Implementation of the Following Information Collection

Report title: Federal Reserve Board Public Web site Usability Survey.

Agency form number: FR 3076.

OMB control number: 7100—to be assigned.

Frequency: On occasion.

Reporters: Consumers, media, economists, financial institutions, nonprofits, community development organizations, consumer groups, state or local agencies, and researchers from academic, government, policy and other institutions.

Estimated annual reporting hours: Surveys, 300 hours; and Focus Groups, 120 hours.

Estimated average hours per response: Surveys, .25 hours; and Focus Groups, 1.50 hours.

Number of respondents: Surveys, 100; and Focus Groups, 20.

General description of report: This information collection is generally authorized under section 2B of the Federal Reserve Act, as amended, that requires the Board to provide certain reports, audits, and other information that ''the Board reasonably believes is necessary or helpful to the public in understating the accounting, financial reporting, and internal controls of the Board and the Federal reserve banks.'' 12 U.S.C. 225b(c). In addition, the Board uses its Web site to provide the public information about a variety of other matters, including information about the Board, its actions, and the economy. The responses to this survey will help the Board to determine how effective its communications are as the Board strives to fulfill its statutory mission to ''maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates.'' 12 U.S.C. 225a. Participation in the FR 3076 would be voluntary and the information collected on these surveys is not considered confidential. Thus, no issue of confidentiality arises.

Abstract: The Board would use the FR 3076 survey to obtain feedback from the public users of the Federal Reserve Board's public Web site, social media, outreach, and communication responsibilities. This collection would seek input from users or potential users to understand their interests and needs; to help make informed decisions concerning content, design, and dissemination strategies; to gauge public awareness of its offerings and resources; and to assess the effectiveness of its communications with various audiences.

The FR 3076 would be used to gather qualitative and quantitative information directly from users or potential users of the Board's Web site such as the public, the Congress, other government agencies, economic educators, economists, financial institutions, financial literacy groups, and community development groups and more.

Web pages may include press releases, data releases and download, reports, supervision manuals, brochures, new Web pages, audio, video, and use of social media. Information gathered may also include general input on users' interests and needs, feedback on Web site navigation and layout, distribution channels, or other factors which may affect the ability of users to locate and access content online.

Qualitative surveys include data gathering methods such as focus groups and individual interviews. Quantitative surveys include surveys conducted online or via mobile device, by phone or by mail, emails, or a combination of these methods. The Board may choose to contract with an outside vendor to conduct focus groups, interviews, or surveys; or the Board may choose to collect the data directly.

As FederalReserve.gov continues to evolve, the Board may seek input from users or potential users of Board's public Web site on questions such as:

- Did you find the content and layout relevant and of value?
- How did you find the content you were looking for?
- Was the navigation useful?
- How did you learn about the content?
- How did you access the content? (*e.g.:* paper copy distributed at an event, online, or mobile device). If online or through a mobile device, was the document printed, viewed on a tablet, or on a computer screen?
- What suggestions do you have for improving the format and appearance of online presentation? (*e.g.:* readability—font size, charts, and graphs; organization of information; and navigating—indexing, search tools, and links).
- What other information would be of value to enhance the online tool or information?

Participation in the FR 3076 would be voluntary.

Board of Governors of the Federal Reserve System, February 6, 2015.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2015–02863 Filed 2–11–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Public Meeting: Proposal by CIT Group, Inc. To Acquire IMB Holdco LLC and its Subsidiary, OneWest Bank, National Association, and To Merge CIT Bank With and Into OneWest Bank, National Association

AGENCY: Board of Governors of the Federal Reserve System (Board) and

Office of the Comptroller of the Currency (OCC).

ACTION: Notice of public meeting.

SUMMARY: A public meeting will be held regarding the proposal by CIT Group, Inc., Livingston, New Jersey, to acquire IMB Holdco LLC and OneWest Bank, National Association, both of Pasadena, California, pursuant to the Bank Holding Company Act, the Bank Merger Act, and related statutes. The purpose of the meeting is to collect information related to factors the Board and OCC (agencies) are required to consider under the Bank Holding Company Act and the Bank Merger Act.

DATES: Thursday, February 26, 2015, from 8:00 a.m. to 4:00 p.m. PST.

ADDRESSES: The meeting will be held at the Los Angeles Branch of the Federal Reserve Bank of San Francisco, 950 South Grand Avenue, Los Angeles, California.

FOR FURTHER INFORMATION CONTACT:

Board: Scott Turner, Vice President, Federal Reserve Bank of San Francisco, (415) 974–2722; Bao Nguyen, Counsel, Legal Division, (202) 736–5599.

OCC: Karen Marcotte, Manager, Licensing Activities, (202) 649–7297; Beverly L. Evans, Director, Licensing Activities, (202) 649–6353.

SUPPLEMENTARY INFORMATION:

Background and Public Meeting Notice

On August 21, 2014, CIT Group, Inc., Livingston, New Jersey, and Carbon Merger Sub LLC, New York, New York (collectively, CIT Group), requested the Board's approval under the Bank Holding Company Act (12 U.S.C. 1841 *et seq.*) to acquire IMB Holdco LLC and thereby indirectly acquire OneWest Bank, National Association, both of Pasadena, California (Holding Company Application). On September 16, 2014, OneWest Bank, National Association applied to the OCC to merge CIT Group's subsidiary bank, CIT Bank, Salt Lake City, Utah, with and into OneWest Bank, National Association, pursuant to section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) (Bank Application). The agencies hereby announce that a public meeting on the applications will be held in Los Angeles, California, on Thursday, February 26, 2015, from 8:00 a.m. to 4:00 p.m. PST.

Purpose and Procedures

The purpose of the public meeting is to collect information relating to the convenience and needs of the communities to be served. Convenience and needs considerations include a review of the records of performance of the insured depository institutions involved in the proposal under the Community Reinvestment Act, which requires the appropriate federal financial supervisory agency to take into account a relevant depository institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the institution. 12 U.S.C. 2903. The agencies also consider other factors in acting on the applications, including the effects of the proposal on the stability of the U.S. banking or financial system, the financial and managerial resources and future prospects of the companies and banks involved in the proposal, and competition in the relevant markets. The agencies also will be collecting information relating to these factors.

Testimony at the public meeting will be presented to a panel consisting of Presiding Officers and other panel members appointed by the Presiding Officers. The Presiding Officers will have the authority and discretion to ensure that the meeting proceeds in a fair and orderly manner. The rules for taking evidence in an administrative proceeding will not apply to this public meeting. Panel members may question witnesses, but no cross-examination of witnesses will be permitted. The public meeting will be transcribed, and the transcripts will be posted on the respective public Web sites of the Board and the OCC. Information regarding the procedures for obtaining a copy of the transcript will be announced at the public meeting.

All persons wishing to testify at the public meeting must submit a written request no later than 5:00 p.m. PST, February 20, 2015. A request to testify may be sent by mail to: Scott Turner, Vice President, Community Engagement, Federal Reserve Bank of San Francisco, 101 Market Street, San Francisco, California 94105; by email to: *sf.community.development.info@sf.frb.org;* or by facsimile to: 415–977–4011. The Board will provide a copy of each request to the OCC.

The request to testify must include the following information: (i) A brief statement of the nature of the expected testimony (including whether the testimony will support or oppose the proposed transactions or provide other comment on them) and the estimated time required for the presentation; (ii) the address and telephone number (email address and facsimile number, if available) of the person testifying; and (iii) the identification of any special needs, such as translation services, physical disabilities requiring assistance, or presentations requiring visual aids. Translators will be provided to the extent available if noted in the request to testify. Persons interested only in attending the meeting, but not testifying, need not submit a written request to attend.

The Presiding Officers will prepare a schedule for persons wishing to testify and establish the order of presentation. To ensure an opportunity for all interested commenters to present their views, the Presiding Officers may limit the time for presentation. Persons not listed on the schedule may be permitted to speak at the public meeting, if time permits, at the conclusion of the schedule of witnesses in the discretion of the Presiding Officers. Copies of testimony may, but need not, be filed with the Presiding Officers before a person's presentation.

The Board is extending the comment period on the Holding Company Application, and the OCC is extending the comment period on the Bank Application, through the close of business on Thursday, February 26, 2015. The Board will make the public record of the Holding Company Application, including all comments received and the transcript of the public meeting, available on the Board's public Web site: http://*www.federalreserve.gov/bankinforeg/cit-group-onewest-application-materials.htm.* The OCC will make the public record of the Bank Application, including all comments received and the transcript of the public meeting, available on the OCC's public Web site: *http://www.occ.gov/topics/licensing/corporate-activities-weekly-bulletin/public-comments-on-applications.html.*

By order of the Board of Governors of the Federal Reserve System, February 6, 2015.

Robert deV. Frierson,

Secretary of the Board.

Dated: February 5, 2015.

Thomas J. Curry,

Comptroller of the Currency.

[FR Doc. 2015–02891 Filed 2–11–15; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Group on Prevention, Health Promotion, and Integrative and Public Health

AGENCY: Office of the Surgeon General of the United States Public Health Service, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In accordance with Section 10(a) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App.), notice is hereby given that a meeting is scheduled to be held for the Advisory Group on Prevention, Health Promotion, and Integrative and Public Health (the ''Advisory Group''). The meeting will be open to the public. Information about the Advisory Group and the agenda for this meeting can be obtained by accessing the following Web site: *http://www.surgeongeneral.gov/initiatives/prevention/advisorygrp/index.html*.

DATES: The meeting will be held on March 9–10, 2015. Exact start and end times will be published closer to the meeting date at: *http://www.surgeongeneral.gov/initiatives/prevention/advisorygrp/index.html*.

ADDRESSES: The meeting will be held on March 9–10, 2015. Exact start and end times and location will be published closer to the meeting date at: *http://www.surgeongeneral.gov/initiatives/prevention/advisorygrp/index.html*.

FOR FURTHER INFORMATION CONTACT: Office of the Surgeon General, 200 Independence Ave. SW., Washington, DC 20201; 202–205–9517; *prevention.council@hhs.gov*.

SUPPLEMENTARY INFORMATION: The Advisory Group is a non-discretionary federal advisory committee that was initially established under Executive Order 13544, dated June 10, 2010, to comply with the statutes under Section 4001 of the Patient Protection and Affordable Care Act, Public Law 111–148. The Advisory Group was established to assist in carrying out the mission of the National Prevention, Health Promotion, and Public Health Council (the Council). The Advisory Group provides recommendations and advice to the Council.

The Advisory Group was terminated on September 30, 2012, by Executive Order 13591, dated November 23, 2011. Authority for the Advisory Group to be re-established was given under Executive Order 13631, dated December 7, 2012. Authority for the Advisory Group to continue to operate until September 30, 2015 was given under Executive Order 13652, dated September 30, 2013.

It is authorized for the Advisory Group to consist of not more than 25 non-federal members. The Advisory Group currently has 21 members who were appointed by the President. The membership includes a diverse group of licensed health professionals, including integrative health practitioners who have expertise in (1) worksite health promotion; (2) community services, including community health centers; (3) preventive medicine; (4) health coaching; (5) public health education; (6) geriatrics; and (7) rehabilitation medicine.

Topics of discussion for the March 2015 meeting of the Advisory Group will include a welcome from the 19th Surgeon General; an update from the Council; reports from the Prioritization and Collective Impact Working Groups; and the development of recommendations for the Council for the upcoming year.

Members of the public who wish to attend must register by 12:00 p.m. EST on March 2, 2015. Individuals should register for public attendance at *prevention.council@hhs.gov* by providing a full name and affiliation. Individuals who plan to attend the meeting and need special assistance and/or accommodations, *i.e.,* sign language interpretation or other reasonable accommodations, should indicate so when they register. The public will have the opportunity to provide comments to the Advisory Group on March 9, 2015; public comment will be limited to 3 minutes per speaker. Registration via email (*prevention.council@hhs.gov*) is also required for the public comment session. Any member of the public who wishes to have printed materials distributed to the Advisory Group for this scheduled meeting should submit material to *prevention.council@hhs.gov* no later than 12:00 p.m. EST on March 2, 2015.

Dated: January 30th, 2015.

Corinne M. Graffunder,

Designated Federal Officer, Advisory Group on Prevention, Health Promotion, and Integrative and Public Health, Office of the Surgeon General.

[FR Doc. 2015–02886 Filed 2–11–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health IT Standards Committee; Call for Nominations

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Call for nominations.

SUMMARY: The Office of the National Coordinator for Health Information Technology (ONC) is seeking nominations to the Health Information Technology Standards Committee (HITSC) to fill expiring terms of ten (10) current members.

Name of Committee: Health IT Standards Committee.

General Function of the Committee: The HITSC is charged with making recommendations to the National Coordinator on standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the Health IT Policy Committee.

Date and Time: Nominations must be received by 12:00 p.m. on Friday, March 6, 2015.

Contact Person: Michelle Consolazio, phone: 781–710–0786, email: *michelle.consolazio@hhs.gov*.

Background: The Health IT Standards Committee was established under the American Recovery and Reinvestment Act 2009 (ARRA) (Pub. L. 111–5), section 13101, new Section 3003. Members of the Health IT Standards Committee are appointed by the Secretary, HHS and shall at least reflect providers, ancillary healthcare workers, consumers, purchasers, health plans, technology vendors, researchers, relevant Federal agencies, and individuals with technical expertise on health care quality, privacy and security, and on the electronic exchange and use of health information. Nominees of the HITSC should have experience promoting the meaningful use of health information technology and be knowledgeable in areas such as: small innovative health care providers, providers participating in payment reform initiatives, accountable care organizations, pharmacists, behavioral health professionals, home health care, purchaser or employer representatives, patient safety, health information technology security, big data, consumer e-health, personal health records, and mobile health.

Members will be selected to achieve a balanced representation of viewpoints, areas of experience, subject matter expertise, and representation across the health care system. Terms will be three (3) years from the appointment date. Members of the Committee serve without pay; however, members will be provided per diem and travel costs for Committee services.

The HITSC is seeking applicants with the following areas of expertise:

- Ancillary Healthcare Worker (*e.g.,* rural representative, underserved representative, telehealth representative, behavioral health, and nursing informatics)

- Consumer/Patient Representative
- Health Plans Representative
- Provider Representative (2)
- Research Representative
- Technical Expertise, Health Exchange
- Technical Expertise, Long-Term Care
- Technical Expertise, Privacy
- Technology Vendor

For more information about the HITSC please visit: *http://healthit.gov/facas/health-it-standards-committee*

Submitting Nominations: Nominations should be submitted electronically through the application database at: *http://healthit.gov/facas/faca-workgroup-membership-application* . All nominations must be compiled and submitted in one complete package. A nomination package must include: A short bio, a current CV including contact information and memberships with professional organizations/advisory committees, and two letters of support.

Dated: February 4, 2015.

Michelle Consolazio,

FACA Program Lead, Office of Policy, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2015–02885 Filed 2–11–15; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry; Notice of Intent To Develop Set 28 Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice of development.

SUMMARY: This notice announces the development of Set 28 Toxicological Profiles. Set 28 Toxicological Profiles consists of one updated profile and three new profiles. These profiles will be available to the public on or about October 17, 2015. Electronic access to these documents will be available at the ATSDR Web site: *http://www.atsdr.cdc.gov/toxprofiles/index.asp.*

FOR FURTHER INFORMATION CONTACT: Commander Jessilynn B. Taylor, Division of Toxicology and Human Health Sciences, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road NE., Mail Stop F–57, Atlanta, GA 30333, telephone 770–488–3313.

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act of 1986 (SARA) (42 U.S.C. 9601 *et seq.*) amended the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or Superfund) (42 U.S.C. 9601 *et seq.*) by establishing certain requirements for ATSDR and the U.S. Environmental Protection Agency (EPA) with regard to hazardous substances that are most commonly found at facilities on the CERCLA National Priorities List (NPL). Among these statutory requirements is a mandate for the Administrator of ATSDR to prepare toxicological profiles for each substance included on the Priority List of Hazardous Substances (*www.atsdr.cdc.gov/SPL*). This list names 275 hazardous substances that pose the most significant potential threat to human health as determined by ATSDR and EPA. The availability of the revised list of the 275 priority substances was announced in the **Federal Register** on May 28, 2014 (79 FR 30613). For prior versions of the list of substances, see **Federal Register** notices dated November 3, 2011 (76 FR 68193); March 6, 2008 (73 FR 12178); December 7, 2005 (70 FR 72840 ; November 7, 2003 (68 FR 63098); October 25, 2001 (66 FR 54014); October 21, 1999 (64 FR 56792); November 17, 1997 (62 FR 61332); April 29, 1996 (61 FR 18744); February 28, 1994 (59 FR 9486); October 28, 1992 (57 FR 48801); October 17, 1991 (56 FR 52166); October 17, 1990 (55 FR 42067); October 26, 1989 (54 FR 43615); October 20, 1988 (53 FR 41280); and April 17, 1987 (52 FR 12866).

Set 28 Toxicological Profiles

The following toxicological profiles are being developed:

	Name	CAS
1	Antimony (UPDATE)	7440–36–0
2	Glyphosate	1071–83–6
3	2-4, Dichlorophenoxyacetic acid	94–75–7
4	Silica	7631–86–9

Notice of the availability of drafts of these four toxicological profiles for public review and comment will be published in the **Federal Register** on/or about October 17, 2015, with notice of a 90-day public comment period for each profile, starting from the actual release date. Following the close of the comment period, chemical-specific comments will be addressed, and, where appropriate, changes will be incorporated into each profile.

Dated: February 3, 2015.

Sascha Chaney,

Acting Director, Office of Policy Planning and Evaluation, National Center for Environmental Health/, Agency for Toxic Substances and Disease Registry.

[FR Doc. 2015–02548 Filed 2–11–15; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis (ACET)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Time and Date: 11:00 a.m.–3:30 p.m., March 3, 2015.

Place: This meeting will be accessible by Web conference. Toll-free +1 (877) 951–7311, Participant Code: 6816256.

For Participants: URL: https://www.mymeetings.com/nc/join/, Conference number: PW1126518, *Audience passcode:* 6816256.

Participants can join the event directly at: *https://www.mymeetings.com/nc/join.php?i=PW1126518&p=6816256&t=c.*

Status: Open to the public limited only by web conference. Participation by web conference is limited by the number of ports available. The meeting accommodates 100 ports.

Purpose: This council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews

the extent to which progress has been made toward eliminating tuberculosis.

Matters for Discussion: Agenda items include the following topics: (1) Update on Global TB Coordination Activities; (2) Profile of Foreign-Born TB cases; (3) Impact of funding cuts on TB programs in the field; and (4) other tuberculosis-related issues.

Agenda items are subject to change as priorities dictate. *Contact Person for More Information:* Margie Scott-Cseh, Centers for Disease Control and Prevention, 1600 Clifton Road NE., M/S E–07, Atlanta, Georgia 30333, telephone (404) 639–8317; Email: *zkr7@cdc.gov*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Catherine Ramadei,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2015–02887 Filed 2–11–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Advisory Committee Renewals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of certain FDA advisory committees by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the charters of the committees listed in the following table for an additional 2 years beyond charter expiration date. The new charters will be in effect until the dates of expiration listed in the following table. This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app.).

DATES: Authority for these committees will expire on the dates indicated in the following table unless the Commissioner formally determines that renewal is in the public interest.

Name of committee	Date of expiration
Cardio and Renal Drugs Advisory Committee.	August 27, 2016.
Endocrinologic and Metabolic Drugs Advisory Committee.	August 27, 2016.
Oncologic Drugs Advisory Committee.	September 1, 2016.
Anti-Infective Drugs Advisory Committee.	October 7, 2016.
Dermatologic and Ophthalmic Drugs Advisory Committee.	October 7, 2016.
Cellular, Tissue, and Gene Therapies Advisory Committee.	October 28, 2016.
Technical Electronic Product Radiation Safety Standards Committee.	December 24, 2016.

FOR FURTHER INFORMATION CONTACT: Michael Ortwerth, Director, Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–443–0572 or 1–800–741–8138. For further information related to FDA advisory committees, please visit us at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

Dated: February 6, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–02909 Filed 2–11–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–0152]

Alcoholism: Developing Drugs for Treatment; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Alcoholism: Developing Drugs for Treatment.'' The purpose of this guidance is to assist sponsors in the development of drugs for the treatment of alcoholism.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by April 13, 2015.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Bldg., 4th Floor, Silver Spring, MD 20993. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Rachel Skeete, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 3191, Silver Spring, MD 20993–0002, 301–796–2280.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Alcoholism: Developing Drugs for Treatment.'' There is a need for additional pharmacologic treatments for alcoholism. Traditionally, alcoholism treatments have been assessed based on the number of patients who refrain from drinking altogether. Patients who attain and sustain complete abstinence from alcohol may be assumed to accrue clinical benefit. However, other patterns of drinking also may be valid surrogates for clinical benefit. This guidance provides supporting information for endpoints based on patterns of drinking that may be considered appropriate measures of clinical benefit.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on the development of drugs for the treatment of alcoholism and appropriate endpoints for clinical trials of drugs to treat alcoholism. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 312 and 314 have been approved under OMB

control numbers 0910–0014 and 0910–0001, respectively.

III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: February 6, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–02908 Filed 2–11–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Joint Meeting of the Cellular, Tissue and Gene Therapies Advisory Committee and the Oncologic Drug Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Cellular, Tissue and Gene Therapies Advisory Committee and the Oncologic Drug Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on April 29, 2015, from 8 a.m. to 6 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

Contact Person: Janie Kim or Rosanna Harvey, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Silver Spring, MD 20993–0002, 301–796–9016 or 240–402–8072, email: *Janie.Kim@fda.hhs.gov* or *Rosanna.Harvey@fda.hhs.gov*, or FDA Advisory Committee Information Line, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/WhatsNew/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committees will discuss talimogene laherparepvec, Amgen, Inc., biologics license application (BLA) 125518, an oncolytic immunotherapy for the treatment of patients with injectable regionally or distantly metastatic melanoma.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before April 15, 2015. Oral presentations from the public will be scheduled between approximately 11:40 a.m. to 12:40 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 7, 2015. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 8, 2015.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Janie Kim at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 6, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–02910 Filed 2–11–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Hematology.

Date: March 9–10, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Bukhtiar H Shah, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, 301–806–7314, *shahb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–13–204: Research in Biomedicine and Agriculture.

Date: March 11, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Gary Hunnicutt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, 301–435–0229, *gary.hunnicutt@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Diabetes and Obesity Research.

Date: March 13, 2015.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gary Hunnicutt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, 301–435–0229, *gary.hunnicutt@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 6, 2015.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–02878 Filed 2–11–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Staged Vaccine Development (BAA).

Date: March 5, 2015.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health Room 3F40A, 5601 Fisher Lane, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Robert C. Unfer, Ph.D., Scientific Review Officer Scientific Review Program DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, Room 3F40 MSC 9823, Rockville, MD 20892–9823, 240–669–5035, *unferrc@nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Immune-Based Antiviral Products for Suppression/Elimination of HIV–1.

Date: March 6, 2015.

Time: 9:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health Room 3F100, 5601 Fisher Lane, Rockville, MD 20892, (Telephone Conference Call).

Contact Person: Roberta Binder, Ph.D., Scientific Review Officer Scientific Review Program Division of Extramural Activities, National Institutes of Health/NIAID, 5601 Fishers Lane Rm 3G21A, Bethesda, MD 20892–7616, 240–669–5050, *rbinder@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 9, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–02957 Filed 2–11–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Prescription Drug Abuse Policy System (PDAPS) (5578).

Date: February 26, 2015.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; High-Impact Substance Abuse Prevention (5577).

Date: March 17, 2015.

Time: 10:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c.nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Tech Tools to Facilitate Implementation (5581).

Date: March 17, 2015.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, lf33c.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: February 6, 2015.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–02879 Filed 2–11–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Fatty Liver Ancillary Studies.

Date: March 9, 2015.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Robert Wellner, Ph.D., Scientific Review Officer, Review Branch, Dea, Niddk, National Institutes of Health, Room 706, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–4721, *rw175w@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Genomic Diagnosis for Chronic Kidney Disease.

Date: March 17, 2015.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Robert Wellner, Ph.D., Scientific Review Officer, Review Branch, Dea, Niddk, National Institutes Of Health, Room 706, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–4721, *rw175w@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Reagents for Glucagon and Incretin Research (R43/R44).

Date: March 19, 2015.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jian Yang, Ph.D., Scientific Review Officer, Review Branch, Dea, Niddk, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *yangj@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 9, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–02958 Filed 2–11–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Clinical Trials and Translational Research Advisory Committee, March 04, 2015, 09:00 a.m. to March 04, 2015, 04:00 p.m., National Institutes of Health, Building 31, C-Wing, 6th Floor, 31 Center Drive, Room 10, Bethesda, MD 20892 which was published in the **Federal Register** on January 09, 2015, 801428.

The meeting notice is amended to reflect that the meeting will also be available via *http://videocast.nih.gov* The meeting is open to the public.

Dated: February 9, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–02960 Filed 2–11–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Review of Proposals for Inhibiting Transcription Factors in Hematologic Malignancies Therapy.

Date: March 6, 2015.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Stephanie J Webb, Ph.D. Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892, 301–435–0291 *stephanie.webb@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS).

Dated: *February 6, 2015.*

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–02880 Filed 2–11–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Pathogenic Eukaryotes and Vectors.

Date: March 5–6, 2015.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John C Pugh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS Immunology and Pathogenesis Study Section.

Date: March 9, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.

Contact Person: Shiv A Prasad, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, 301–443–5779, *prasads@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–14–089: Alzheimer's Disease Pilot Clinical Trials.

Date: March 9, 2015.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mark Lindner, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, 301–435–0913, *mark.lindner@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Vascular and Hematology One.

Date: March 10, 2015.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anshumali Chaudhari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR 12–251: B/START Review.

Date: March 12, 2015.

Time: 2:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Andrea B Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Physiology and Pathobiology of Cardiovascular and Respiratory Systems.

Date: March 16–17, 2015.

Time: 8:00 a.m. to 5:00 p.m.

*Agenda:*To review and evaluate grant applications and/or proposals.

Place: The St. Regis Washington, DC, 923 16th St NW., Washington, DC 20006, Washington, DC 20006.

Contact Person: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7812, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 9, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–02959 Filed 2–11–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4207–DR; Docket ID FEMA–2015–0002]

Vermont; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Vermont (FEMA–4207–DR), dated February 3, 2015, and related determinations.

DATES: *Effective Date:* February 3, 2015.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated February 3, 2015, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Vermont resulting from a severe winter storm during the period of December 9–12, 2014, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Vermont.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, James N. Russo, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Vermont have been designated as adversely affected by this major disaster:

Addison, Chittenden, Essex, Franklin, Lamoille, Orange, Orleans, Rutland, Washington, and Windsor Counties for Public Assistance.

All areas within the State of Vermont are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2015–02881 Filed 2–11–15; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–R–2014–N153; 1265–0000–10137–S3]

Kīlauea Point National Wildlife Refuge, Kaua'i County, HI; Draft Comprehensive Conservation Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan and environmental assessment (Draft CCP/EA) for Kīlauea Point National Wildlife Refuge (Refuge) for public review and comment. The Draft CCP/EA describes our proposal for managing the Refuge for 15 years.

DATES: To ensure consideration, please send your written comments by March 27, 2015. We will announce upcoming public open house meetings in mailings, newspaper articles, Web site postings, and through local media announcements.

ADDRESSES: You can download the Draft CCP/EA from our Web site: *www.fws.gov/refuge/Kilauea_Point/what_we_do/planning.html,* or request printed or CD–ROM copies of it and submit comments and requests for more information, by any of the following methods.

Email: FW1PlanningComments@fws.gov. Include ''Kīlauea Point draft CCP'' in the subject line of the message.

Fax: Attn: Michael Mitchell, (808) 828–6381.

U.S. Mail: Kaua'i National Wildlife Refuge Complex, P.O. Box 1128, Kīlauea, HI 96754.

In-Person Drop-off, Viewing, or Pickup: Call (808) 828–1413 to make an appointment (necessary for viewing/pickup only) during regular business hours at the Kīlauea Point National Wildlife Refuge, 3500 Kīlauea Road, Kīlauea, HI 96754. Printed copies of the draft CCP/EA are available at local libraries; see ''Public Availability of Documents'' under **SUPPLEMENTARY INFORMATION** for library names and addresses.

FOR FURTHER INFORMATION CONTACT: Michael Mitchell, Acting Project Leader, (808) 828–1413 (phone).

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Kīlauea Point Refuge. We started this process through a notice of intent in the **Federal Register** (74 FR 49399; September 28, 2009). More information about the Refuge's history, wildlife, and habitats is available in that notice.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify compatible wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

Public Availability of Documents

In addition to methods identified in **ADDRESSES**, you can review printed copies of the Draft CCP/EA at the following libraries.

- Princeville Public Library, 4343 Emmalani Drive, Princeville, HI 96722.
- Līhu'e Public Library, 4344 Hardy Street, Līhu'e, HI 96766.
- Kapa'a Public Library, 4–1464 Kuhio Highway, Kapa'a, HI 96746.
- Koloa Public Library, 3451 Poipu Road, Koloa, HI 96756.
- Hanapepe Public Library, 4490 Kona Road, Hanapepe, HI 96716.
- Waimea Public Library, 9750 Kaumualii Highway, Waimea, HI 96796.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 1, 2014.

Hugh Morrison,

Acting Regional Director, Pacific Region, Portland, Oregon.

This document was received for publication by the Office of Federal Register on February 9, 2015''.

[FR Doc. 2015–02919 Filed 2–11–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO956000 L14200000.BJ0000]

Notice of Filing of Plats of Survey; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey; Colorado.

SUMMARY: The Bureau of Land Management (BLM) Colorado State Office is publishing this notice to inform the public of the intent to officially file the survey plat listed below and afford a proper period of time to protest this action prior to the plat filing. During this time, the plat will be available for review in the BLM Colorado State Office.

DATES: Unless there are protests of this action, the filing of the plat described in this notice will happen on March 16, 2015.

ADDRESSES: BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, CO 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plat, in 2 sheets, and field notes of the dependent resurvey and survey in Townships 12 and 13 South, Ranges 66 and 67 West, Sixth Principal Meridian, Colorado, were accepted on January 16, 2015.

Randy Bloom,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2015–02940 Filed 2–11–15; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZP02000.L54100000.FR0000. LVCLA12A5210.241A; AZA–35780]

Notice of Realty Action: Application for Conveyance of Federally Owned Mineral Interests in Pima County, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) is processing an application under the Federal Land Policy and Management Act of October 21, 1976 (FLPMA), to convey the federally owned mineral interests of 80 acres located in Pima County, Arizona, to the surface owner, Sahuarita Holdings, LLC. Upon publication of this notice, the BLM is temporarily segregating the federally owned mineral interests in the land covered by the application from all forms of appropriation under the public land laws, including the mining laws for up to 2 years while the BLM processes the application.

DATES: Interested persons may submit written comments to the BLM at the address listed below. Comments must be received no later than March 30, 2015.

ADDRESSES: Bureau of Land Management, Phoenix District Office, 21605 North 7th Avenue, Phoenix, AZ 85027. Detailed information concerning this action is available for review at this address.

FOR FURTHER INFORMATION CONTACT: Benedict Parsons, Realty Specialist, at 623–580–5637. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question for the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The location of the federally owned mineral interest segregated by this notice is identical to that of the privately owned surface estate of the applicant. The tract of land referred to in this notice consists of several miscellaneously shaped parcels of land aggregating 80 acres, situated in Pima County, Arizona, and is described as follows:

Parcel 3, as described in the Warranty Deed to Sahuarita Holdings, LLC, dated, March 29, 2011.

Gila and Salt River Meridian, Arizona

T. 17 S., R. 13 E.,
Sec. 21, N½SE¼, Except any portion lying within the following described lands:
COMMENCING at the center section corner of the said Section 21;
THENCE, South 01 degrees 19 minutes 24 seconds East, along the center section line, 290.97 feet to a point on the south boundary line of Sahuarita Road as shown on Pima County road map #346, said point also being the true point of beginning;
THENCE, North 68 degrees 12 minutes 00 second East, 112.29 feet to an angle point;
THENCE, North 74 degrees 21 minutes 27 second East, 517.24 feet to an angle point;
THENCE, North 74 degrees 49 minutes 59 second East, 193.67 feet to an angle point;
THENCE, North 86 degrees 54 minutes 28 second East, 144.57 feet to an angle point;
THENCE, South 78 degrees 06 minutes 23 second East, 369.53 feet to an angle point;
THENCE, South 74 degrees 54 minutes 09 second East, 205.29 feet to an angle point;
THENCE, South 79 degrees 31 minutes 15 second East, 186.72 feet to an angle point;
THENCE, North 82 degrees 33 minutes 02 second East, 340.08 feet to an angle point;
THENCE, South 87 degrees 36 minutes 56 second East, 145.62, feet to an angle point;
THENCE, South 82 degrees 16 minutes 49 second East, 259.50 feet to an angle point;
THENCE, South 84 degrees 48 minutes 55 second East, 219.07 feet to a point on the East line of said Section 21;
THENCE, South 01 degree 19 minutes 11 second East, along the East section line, 402.94 feet to a point;
THENCE, South 01 degree 18 minutes 20 seconds east, along said East line, 655.77 feet to a point;
THENCE, South 89 degrees 31 minutes 09 seconds West, 2635.11 feet to a point on the center section line of said section;
THENCE, North 01 degree 22 minutes 54 seconds West, along the center section line, 657.16 feet to a point;
THENCE, North 01 degree 19 minutes 24 seconds West, along the center section line, 364.19 feet to the true point of beginning.

Parcel 4, as described in the Warranty Deed to Sahuarita Holdings, LLC, dated March 29, 2011.

Gila and Salt River Meridian, Arizona

T. 17 S., R. 13 E,
Sec. 21, Portions of E½NW¼ and NE¼SW¼, more specifically described as,
BEGINNING at the center section corner of said Section 21;
THENCE, South 01 degree 19 minutes 24 seconds East, along said center section line, 290.97 feet to a point lying on the South boundary line of Sahuarita Road as shown on Pima County road map #346;
THENCE, South 68 degrees 23 minutes 37 seconds West, along a fence line, 533.23 feet to an angle point;
THENCE, South 59 degrees 08 minutes 52 seconds West, 316.13 feet to an angle point;
THENCE, South 82 degrees 45 minutes 20 seconds West, 153.38 feet to an angle point;
THENCE, North 89 degrees 51 minutes 16 seconds West, 31.73 feet to a point;
THENCE, North 89 degrees 25 minutes 53 seconds West, 3297.38 feet to a point on the North line of Section 21;
THENCE, North 89 degrees 25 minutes 53 seconds East, along said North line, 959.80 feet to the North Quarter corner of Section 21;
THENCE, South 01 degree 20 minutes 28 seconds East, along the center section line, 2638.10 feet to the true point of beginning.

The areas described aggregate approximately 80 acres.

Under certain conditions, Section 209(b) of the FLPMA authorizes the conveyance of the federally owned mineral interests in land to the current or prospective surface owner, upon payment of administrative costs and the fair market value of the interest being conveyed. The objective of Section 209 is to allow consolidation of the surface and mineral interests when either one of the following conditions exist: (1) There are no known mineral values in the land; or (2) Where continued Federal ownership of the mineral interests interferes with or precludes appropriate non-mineral development and such development is a more beneficial use of the land than mineral development.

Sahuarita Holdings, LLC, the surface owner filed an application for the conveyance of the federally owned mineral interests in the above-described tracts of land. The applicant has deposited, as required under Section 209(b)(3)(i), a sum of money determined sufficient to cover administrative costs, but not limited to, the cost for the completed Mineral Potential Report. Subject to valid existing rights, on February 12, 2015 the federally owned mineral interests in the land described above are hereby segregated from all forms of appropriation under the public land laws, including the mining laws while the application is being processed to determine if either one of the two specified conditions exists and, if so, to otherwise comply with the procedural requirements of 43 CFR part 2720. The segregative effect shall terminate upon: (1) Issuance of a patent or other document of conveyance as to such mineral interests; (2) Final rejection of the application; or (3) February 13, 2017, whichever occurs first.

Please submit all comments in writing to Benedict Parsons at the address listed above. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made available to the public at any time. While you can ask in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 2720.1–1(b)

Rem Hawes,

Acting District Manager.

[FR Doc. 2015–02944 Filed 2–11–15; 8:45 am]

BILLING CODE 4310–32–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Toy Figurines and Toy Sets Containing the Same, DN 3054;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of LEGO A/S, LEGO System A/S, and LEGO Systems, Inc. on February 6, 2015. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain toy figurines and toy sets containing the same. The complaint names as respondents LaRose Industries LLC d/b/a CRA–Z–ART of Randolph, NJ; MEGA Brands Inc. of Canada; and Best-Lock Construction Toys, Inc. of Miami, FL. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3054'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: February 6, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–02903 Filed 2–11–15; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1125–NEW]

Agency Information Collection Activities; Proposed eCollection; eComments Requested; Evaluation of the justice AmeriCorp Legal Services for Unaccompanied Children Program

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Executive Office for Immigration Review, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until April 13, 2015.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jean King, Acting General Counsel, Executive Office for Immigration Review, U.S. Department of Justice, Suite 2600, 5107 Leesburg Pike, Falls Church, Virginia 20530; telephone: (703) 305–0470.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Executive Office for Immigration Review, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* New Voluntary Collection.

2. *The Title of the Form/Collection:* Evaluation of the justice AmeriCorp (jAC) Legal Services for Unaccompanied Children Program.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The applicable component within the Department of Justice is the Office of Legal Access Programs, Executive Office for Immigration Review.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* This information collection is part of the Evaluation of the justice AmericCorp (jAC) Legal Services for Unaccompanied Children Program (''Program''), and is funded by Executive Office for Immigration Review (EOIR), U.S. Department of Justice (DOJ), in cooperation with the Corporation for National and Community Services (CNCS). The Program is intended to provide legal services to children under the age of 16 who: (1) Are not in the custody of the Office of Refugee Resettlement (ORR) or the Department of Homeland Security (DHS), *i.e.* have been released to sponsors (who are sometimes parents or guardians) in the community; (2) have received a Notice to Appear in removal proceedings before EOIR; and, (3) have not had their cases consolidated with removal proceedings with a parent or legal guardian. The Program anticipates being able to provide services to 3,000 children in the first year, and 5,000 children annually every year thereafter. The information collection will be administered by the Vera Center on Immigration and Justice to provide performance measurement and evaluation services that will contribute to the efficiency and effectiveness of the Program, to address implementation challenges, to inform and improve program design, to modify program operations and direction, and to contribute to greater accountability and transparency. The Program will use four data collection methods: (1) Performance measurement data entered by jAC member organizations in a secure on-line, Vera-designed Caspio database for the purpose of semi-annual reporting to the federal funder; (2) qualitative interviews of jAC program managers and selected DOJ employees (*e.g.* immigration judges) conducted by telephone and in person during site visits for the purpose of implementation evaluation; (3) qualitative interviews with a small sample of unaccompanied children, who are provided with legal representation by the jAC program to document their understanding of immigration proceedings as a result of participation in the program; and (4) a brief, non-identifiable survey of jAC members (staff attorneys) at the end of their terms of service to determine their satisfaction with participation in the program.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 100 jAC members will take part in the survey annually. Based on similar surveys used by Vera to evaluate other programs, an

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

average of 45 minutes per respondent is needed to complete the exit survey. The estimated range of burden for jAC members is expected to be between 30 minutes to 1 hour for completion. An estimated 1,000 children will take part in the survey annually. The survey for assessing the child's understanding of immigration proceedings is estimated to take 1.5 hours per respondent to complete. The estimated range of burden for surveyed children is expected to be between 1 hour and 2 hours for completion. The factors considered when creating the burden estimate were the young age of the children (between the ages of 12 and 16) and the fact that the survey would be conducted via an in-person interview. An estimated 200 jAC program stakeholders will take part in the survey annually. Based on similar surveys used by Vera to evaluate other programs, an average of 75 minutes per respondent is needed to complete the exit survey. The estimated range of burden for jAC program stakeholders is expected to be between 30 minutes to 2 hours for completion.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 1825 hours. It is estimated that 100 jAC members will take 45 minutes hour to complete the survey; 1,000 children will take 1.5 hours to complete the survey; and 200 jAC stakeholders 75 minutes to complete the survey. The burden hours for collecting respondent data sum to 1825 hours ((100 jAC members × 45 minutes = 75 hours) + (1,000 children × 1.5 hours = 1,500 hours) + (200 jAC stakeholders × 75 minutes = 250 hours)).

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: February 9, 2015.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2015–02962 Filed 2–11–15; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0022]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Federal Explosives License/Permit (FEL) Renewal Application

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until April 13, 2015.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Christopher Reeves, Chief, Federal Explosives Licensing Center, at *Christopher.R.Reeves@usdoj.gov,* 244 Needy Road, Martinsburg, WV 25405.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection 1140–0022

1. *Type of Information Collection:* Revision of an existing collection.

2. *The Title of the Form/Collection:* Federal Explosives License/Permit (FEL) Renewal Application.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 5400.14/5400.15 Part III.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: Federal Government, State, Local, or Tribal Government.

Abstract: The form is used for the renewal of an explosive license or permit.

The renewal application is used by ATF to determine that the applicant remains eligible to retain the license or permit. The change to the form is to add instructions that ATF Form 5400.28 must be completed for all EP's that are active on the Federal Explosives License (FEL), both current and new EP's.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 2,500 respondents will take 25 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 825 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: February 9, 2015.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2015–02927 Filed 2–11–15; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act and Emergency Planning and Community Right-to-Know Act

On February 6, 2015, the Department of Justice lodged a proposed Consent

Decree with the United States District Court for the District of Nebraska in the lawsuit entitled *United States* v. *DPC Enterprises, LP and DPC Industries, Inc.,* Civil Action No. 8:15–cv–50.

The complaint seeks civil penalties and injunctive relief for violations of the reporting requirements contained in Sections 112(r) of the Clean Air Act (CAA) and Section 312(a) of the Emergency Planning and Community Right-to-Know Act (EPCRA) from DPC Enterprises, L.P. and DPC Industries, Inc. The consent decree settles the alleged claims in return for a penalty of $199,000 and performance of a comprehensive audit by a third party. The consent decree also includes a supplemental environmental project.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division and should refer to *United States* v. *DPC Enterprises, LP and DPC Industries, Inc.,* D.J. Ref. No. 90–5–2–1–09973. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library,

U.S. DOJ—ENRD,

P.O. Box 7611,

Washington, DC 20044–7611.

Please enclose a check or money order for $12.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Susan M. Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–02956 Filed 2–11–15; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2015–026]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before March 16, 2015. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR), 8601 Adelphi Road, College Park, MD 20740–6001.

E*mail: request.schedule@nara.gov.*

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, Records Management Services (ACNR), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1799. Email: *request.schedule@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit

level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Army, Agency-wide (DAA–AU–2014–0036, 1 item, 1 temporary item). Master files of an electronic information system used to track equipment issued to soldiers.

2. Department of the Army, Agency-wide (DAA–AU–2015–0001, 1 item, 1 temporary item). Records relating to civilian academic papers including dissertations and other written contributions.

3. Department of the Army, Agency-wide (DAA–AU–2015–0003, 1 item, 1 temporary item). Master files of an electronic information system used to create, review, and approve changes to engineering documents relating to Army materiel.

4. Department of the Army, Agency-wide (DAA–AU–2015–0007, 1 item, 1 temporary item). Master files of an electronic information system that contains weapon systems life cycle management data including weapon systems requirements, engineering diagrams, and training documents.

5. Department of the Army, Agency-wide (DAA–AU–2015–0010, 2 items, 2 temporary items). Master files of an electronic information system that contains military service entrance files including consent forms, aptitude scores, and medical prescreening reports.

6. Department of the Army, Agency-wide (DAA–AU–2015–0011, 1 item, 1 temporary item). Master files of an electronic information system that contains records relating to security and access at ammunition and weapons storage facilities.

7. Department of Energy, Loan Program Office (DAA–0434–2015–0001, 5 items, 5 temporary items). Records relating to loan guarantees for alternative energy producers and manufacturers.

8. Department of the Navy, U.S. Marine Corps (DAA–0127–2012–0007, 1 item, 1 temporary item). Master files of an electronic information system used to manage and track budgets.

9. Department of the Navy, U.S. Marine Corps (DAA–0127–2013–0030, 1 item, 1 temporary item). Master files of an electronic information system used to track location, shelf life, and quality of chemical, biological, and nuclear defensive equipment.

10. Department of Transportation, Federal Motor Carriers Safety Administration (DAA–0557–2015–0001, 6 items, 6 temporary items). Records relating to the administration of a national registry for the medical certification of commercial motor vehicle drivers.

11. Commodity Futures Trading Commission, Agency-wide (DAA–0180–2012–0002, 6 items, 4 temporary items). Records of internal agency committees to include routine program files, management studies, and administrative policy records. Proposed for permanent retention are program files of senior leadership and mission-related policy records.

12. Commodity Futures Trading Commission, Enforcement Division (DAA–0180–2012–0003, 10 items, 8 temporary items). Referrals, investigation case files, enforcement case files, and summary records. Proposed for permanent retention are historically significant investigation and enforcement case files.

13. Consumer Financial Protection Bureau, Operations Division (DAA–0587–2014–0001, 5 items, 5 temporary items). Records relating to collection and disbursement of civil penalties to include case files, guidelines, and accounting documentation.

14. National Archives and Records Administration, Government-wide (DAA–GRS–2015–0001, 6 items, 4 temporary items). A revised General Records Schedule for Federal advisory committee records including records of Federal advisory committees whose sole purpose is grant review, committee accountability records, non-substantive committee records, and committee management records. Proposed for permanent retention are substantive records of non-grant review Federal advisory committees.

15. Railroad Retirement Board, Agency-wide (DAA–0184–2013–0003, 3 items, 3 temporary items). Master files of an electronic information system used to track claim files, and records relating to the administration of government travel cards.

16. Securities and Exchange Commission, Agency-wide (DAA–0266–2015–0001, 8 items, 8 temporary items). Records relating to the agency's internal Web site including content, management records, and technical documentation.

Dated: January 29, 2015.

Laurence Brewer,

Director, National Records Management Program.

[FR Doc. 2015–02875 Filed 2–11–15; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office

[NARA–2015–027]

National Industrial Security Program Policy Advisory Committee (NISPPAC)

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C. app 2) and implementing regulation 41 CFR 101–6, NARA announces a meeting of the National Industrial Security Program Policy Advisory Committee (NISPPAC).

DATES: The meeting will be on March 18, 2015, from 10:00 a.m. to 12:00 p.m., EDT.

ADDRESSES: National Archives and Records Administration; 700 Pennsylvania Avenue NW., Archivist's Reception Room, Room 105, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Michael Manning, Program Analyst, by mail at ISOO, National Archives Building; 700 Pennsylvania Avenue NW., Washington, DC 20408, by telephone number at (202) 357–5474, or by email at *michael.manning@nara.gov*. Contact ISOO at *ISOO@nara.gov* and the NISPPAC at *NISPPAC@nara.gov*.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss National Industrial Security Program policy matters. The meeting will be open to the public. However, due to space limitations and access procedures, you must submit the name and telephone number of individuals planning to attend to the Information Security Oversight Office (ISOO) no later than Friday, March 13, 2015. ISOO will provide additional instructions for accessing the meeting's location.

Dated: February 4, 2015.

Patrice Little Murray,

Committee Management Officer.

[FR Doc. 2015–02874 Filed 2–11–15; 8:45 am]

BILLING CODE 7515–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2015–41; Order No. 2348]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning

an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 13, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On February 5, 2015, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2015–41 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than February 13, 2015. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Lyudmila Y. Bzhilyanskaya to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2015–41 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Lyudmila Y. Bzhilyanskaya is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than February 13, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2015–02904 Filed 2–11–15; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, February 5, 2015 (Notice).

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2015–31 and CP2015–40; Order No. 2349]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an addition of Priority Mail International Regional Rate Boxes Contract 1 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 16, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*, the Postal Service filed a formal request and associated supporting information to add Priority Mail International Regional Rate Boxes Contract 1 to the competitive product list.[1]

The Postal Service contemporaneously filed a redacted contract related to the proposed new product under 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* Attachment 4.

To support its Request, the Postal Service filed a copy of the contract, a copy of the Governors' Decision authorizing the product, proposed changes to the Mail Classification Schedule, a Statement of Supporting Justification, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket Nos. MC2015–31 and CP2015–40 to consider the Request pertaining to the proposed Priority Mail International Regional Rate Boxes Contract 1 product and the related contract, respectively.

The Commission invites comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than February 16, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2015–31 and CP2015–40 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).

3. Comments are due no later than February 16, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2015–02913 Filed 2–11–15; 8:45 am]

BILLING CODE 7710–FW–P

[1] Request of the United States Postal Service to Add Priority Mail International Regional Rate Boxes Contracts to the Competitive Products List, and Notice of Filing (Under Seal) of Contract and Application for Non-Public Treatment of Materials Filed Under Seal, February 4, 2015 (Request). The Commission is changing the agreement name from the Postal Service's proposed Priority Mail International Regional Rate Boxes Contracts to Priority Mail International Regional Rate Boxes Contract 1. The Commission has added a numerical marker to avoid confusion should the Postal Service propose to create a similar product in the future.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31449; 812–14235]

AB Cap Fund, Inc., *et al.;* Notice of Application

February 6, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

Summary of Application: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

Applicants: AP Cap Fund, Inc. (the ''Corporation'') and AllianceBernstein L.P. (''Adviser'' and together with the Corporation, ''Applicants'').

Filing Dates: The application was filed November 14, 2013, and amended on March 31, 2014 and January 7, 2015.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 2, 2015 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Emilie D. Wrapp, Esq., AllianceBernstein L.P., 1345 Avenue of the Americas, New York, NY 10105.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Senior Counsel, at (202) 551–6868, or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Corporation, a Maryland corporation, is registered under the Act as an open-end management investment company that consists of several series (''Series''), each with its own investment objectives, policies and restrictions.[1]

2. AllianceBernstein L.P., a Delaware limited partnership, is and any future Adviser (as defined below) will be registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). AllianceBernstein L.P currently serves as the investment adviser to the Initial Funds. An Adviser will serve as an investment adviser to each Subadvised Fund pursuant to an investment advisory agreement with the Corporation (each an ''Investment Advisory Agreement''). Each Investment Advisory Agreement has been, or will be, approved by the board of directors of the Corporation (the ''Board''), including a majority of the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Corporation or the Adviser (''Independent Directors'') and by the shareholders of the relevant Subadvised Fund in the manner required by sections 15(a) and 15(c) of the Act and rule 18f–2 under the Act.[2] Applicants are not seeking any exemption from the provisions of the Act with respect to the Advisory Agreement.

3. Each Investment Advisory Agreement will permit the Adviser to manage the investment and reinvestment of the assets of each Subadvised Fund and to provide management services with respect to a Subadvised Fund. For the investment management services it provides to a Subadvised Fund, the Adviser will receive from that Subadvised Fund the fee specified in its Investment Advisory Agreement, payable monthly at an annual rate based on the average daily net assets of the Subadvised Fund.

4. The Investment Advisory Agreement will permit the Adviser to enter into subadvisory agreements (''Subadvisory Agreements'') with certain investment subadvisers (''Subadvisers''). Each Subadviser will be an investment adviser as defined in section 2(a)(20) of the Act, and either will be registered with the Commission as an investment adviser under the Advisers Act or not subject to such registration. The Adviser will evaluate, allocate assets to and oversee the Subadvisers, and make recommendations about their hiring, termination and replacement to the Board, at all times subject to the authority of the Board.

5. For the services provided under each Subadvisory Agreement, it is currently intended that the applicable Subadviser will receive from the Adviser a fee based on a percentage of the Subadvised Fund's average daily total or net assets or allocated portion thereof. Where the Adviser is responsible for paying Subadvisory fees to the Subadviser, the Adviser will compensate each Subadviser out of its assets. Subadvised Funds may directly pay advisory fees to Subadvisers in the future.

6. Applicants request an order to permit the Adviser, subject to Board approval, to select certain Subadvisers to manage all or a portion of the assets of a Subadvised Fund pursuant to a Sub-Advisory Agreement and materially amend Sub-Advisory Agreements without obtaining shareholder approval. The requested relief will not extend to any Subadviser that is an affiliated

[1] The Corporation's Series include the AB Multi-Manager Alternative Strategies Fund series, the AB Multi-Manager Select Retirement Allocation Fund series, the AB Multi-Manager Select 2010 Fund series, the AB Multi-Manager Select 2015 Fund series, the AB Multi-Manager Select 2020 Fund series, the AB Multi-Manager Select 2025 Fund series, the AB Multi-Manager Select 2030 Fund series, the AB Multi-Manager Select 2035 Fund series, the AB Multi-Manager Select 2040 Fund series, the AB Multi-Manager Select 2045 Fund series, the AB Multi-Manager Select 2050 Fund series, the AB Multi-Manager Select 2055 Fund series and the AB Long/Short Multi-Manager Fund (the ''Initial Funds''). Applicants request that the relief sought herein apply to Applicants, as well as to any existing or future Series of the Corporation and to any other existing or future registered open-end investment company or series thereof that: (a) Is advised by the Adviser (any such series or investment company, including without limitation the Corporation, the Initial Funds and any Series of the Corporation, a ''Fund''); (b) uses the manager of managers structure described in this application (''Manager of Managers Structure''); and (c) complies with the terms and conditions of this application (the ''Subadvised Funds,'' and each a ''Subadvised Fund''). The only existing registered open-end management investment company that currently intends to rely on the requested order is named as an Applicant, and the Series that currently intend to rely on the requested order are identified in this application as Initial Funds. Any entity that relies on the requested order will do so only in accordance with the terms and conditions of this application. If the name of any Subadvised Fund contains the name of a subadviser, the name of the Adviser that serves as the primary adviser to that Subadvised Fund or a trademark or trade name that is owned by or publicly used to identify that Adviser will precede the name of the subadviser.

[2] The term ''Board'' also includes the board of trustees or directors of an existing or future Subadvised Fund.

person, as defined in section 2(a)(3) of the Act, of the Corporation, a Subadvised Fund or the Adviser, other than by reason of serving as a Subadviser to a Subadvised Fund (''Affiliated Subadviser'').

7. Applicants also request an order exempting the Subadvised Funds from certain disclosure provisions described below that may require the Applicants to disclose fees paid to each Subadviser by the Adviser or a Subadvised Fund. Applicants seek an order to permit each Subadvised Fund to disclose (as a dollar amount and a percentage of a Subadvised Fund's total or net assets) only: (a) The aggregate fees paid to the Subadvised Fund's Adviser and any Affiliated Subadvisers; and (b) the aggregate fees paid to Subadvisers other than Affiliated Subadvisers (collectively, the ''Aggregate Fee Disclosure''). All other items required by sections 6–07(2)(a), (b) and (c) of Regulation S–X will be disclosed. A Subadvised Fund that employs an Affiliated Subadviser will provide separate disclosure of any fees paid to the Affiliated Subadviser.

8. The Subadvised Funds will inform shareholders of the hiring of a new Subadviser pursuant to the following procedures (''Modified Notice and Access Procedures''): (a) Within 90 days after a new Subadviser is hired for any Subadvised Fund, that Subadvised Fund will send its shareholders either a Multi-manager Notice or a Multi-manager Notice and Multi-manager Information Statement; [3] and (b) the Subadvised Fund will make the Multi-manager Information Statement available on the Web site identified in the Multi-manager Notice no later than when the Multi-manager Notice (or Multi-manager Notice and Multi-manager Information Statement) is first sent to shareholders, and will maintain it on that Web site for at least 90 days.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (''Exchange Act''). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees. Regulation S–X sets forth the requirements for financial statements required to be included as part of a registered investment company's registration statement and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b) and (c) of Regulation S–X require a registered investment company to include in its financial statement information about the investment advisory fees.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

5. Applicants assert that the shareholders expect the Adviser, subject to the review and approval of the Board, to select one or more Subadvisers who are well suited to achieve the Subadvised Fund's investment objective. Applicants assert that, from the perspective of the shareholder, the role of the Subadviser is substantially equivalent to the role of the individual portfolio managers employed by an investment adviser to a traditional investment company. Applicants believe that without the requested relief, the Subadvised Funds may be (i) precluded from promptly and timely hiring Subadvisers or materially amending Subadvisory Agreements, or (ii) subject to delays and additional expense of proxy solicitation when hiring Subadvisers or materially amending Subadvisory Agreements considered appropriate by the Adviser and the Board. Applicants note that the Investment Advisory Agreement for each Subadvised Fund and subadvisory agreements with Affiliated Subadvisers (if any) will continue to be subject to the shareholder approval requirements of section 15(a) of the Act and rule 18f–2 under the Act.

6. Applicants assert that the requested disclosure relief would benefit shareholders of the Subadvised Funds because it would improve the Adviser's ability to negotiate the fees paid to Subadvisers. Applicants state that the Adviser may be able to negotiate rates that are below a Subadvisers ''posted'' amounts, if the Adviser is not required to disclose the Subadvisers' fees to the public. Applicants submit that the requested relief will also encourage Subadvisers to negotiate lower subadvisory fees with the Adviser if the lower fees are not required to be made public.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Subadvised Fund may rely on the order requested herein, the operation of the Subadvised Fund in the manner described in the application will be approved by a majority of the Subadvised Fund's outstanding voting securities as defined in the Act, or, in the case of a Subadvised Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder before such Subadvised Fund's shares are offered to the public.

2. The prospectus for each Subadvised Fund will disclose the existence, substance, and effect of any order granted pursuant to the application. In addition, each Subadvised Fund will hold itself out to

[3] A ''Multi-manager Notice'' will be modeled on a Notice of Internet Availability as defined in rule 14a–16 under the Exchange Act, and specifically will, among other things: (a) Summarize the relevant information regarding the new Subadviser; (b) inform shareholders that the Multi-manager Information Statement is available on a Web site; (c) provide the Web site address; (d) state the time period during which the Multi-manager Information Statement will remain available on that Web site; (e) provide instructions for accessing and printing the Multi-manager Information Statement; and (f) instruct the shareholder that a paper or email copy of the Multi-manager Information Statement may be obtained, without charge, by contacting the Subadvised Funds. A ''Multi-manager Information Statement'' will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act for an information statement, except as modified by the requested order to permit Aggregate Fee Disclosure. Multi-manager Information Statements will be filed electronically with the Commission via the EDGAR system.

the public as employing the Manager of Managers Structure. The prospectus will prominently disclose that the Adviser has the ultimate responsibility, subject to oversight by the Board, to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. Subadvised Funds will inform shareholders of the hiring of a new Subadviser within 90 days after the hiring of the new Subadviser pursuant to the Modified Notice and Access Procedures.

4. The Adviser will not enter into a Subadvisory Agreement with any Affiliated Subadviser unless such agreement, including the compensation to be paid thereunder, has been approved by the shareholders of the applicable Subadvised Fund.

5. At all times, at least a majority of the Board will be Independent Directors, and the selection and nomination of new or additional Independent Directors will be placed within the discretion of the then-existing Independent Directors.

6. Independent Legal Counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Directors. The selection of such counsel will be within the discretion of the then-existing Independent Directors.

7. Whenever a subadviser change is proposed for a Subadvised Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Directors, will make a separate finding, reflected in the Board minutes, that the change is in the best interests of the Subadvised Fund and its shareholders, and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

8. Whenever a subadviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the profitability of the Adviser.

9. The Adviser will provide the Board, no less frequently than quarterly, with information about the profitability of the Adviser on a per Subadvised Fund basis. The information will reflect the impact on profitability of the hiring or termination of any subadviser during the applicable quarter.

10. The Adviser will provide general management services to each Subadvised Fund, including overall supervisory responsibility for the general management and investment of the Subadvised Fund's assets and, subject to review and approval of the Board, will: (i) Set the Subadvised Fund's overall investment strategies; (ii) evaluate, select, and recommend Subadvisers to manage all or a portion of the Subadvised Fund's assets; (iii) allocate and, when appropriate, reallocate the Subadvised Fund's assets among Subadvisers; (iv) monitor and evaluate the Subadvisers' performance; and (v) implement procedures reasonably designed to ensure that Subadvisers comply with the Subadvised Fund's investment objective, policies and restrictions.

11. No Director or officer of a Subadvised Fund or director, manager or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Subadviser except for (i) ownership of interests in the Adviser or any entity that controls, is controlled by or is under common control with the Adviser; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of any publicly traded company that is either a Subadviser or an entity that controls, is controlled by or is under common control with a Subadviser.

12. Each Subadvised Fund will disclose in its registration statement the Aggregate Fee Disclosure.

13. In the event the Commission adopts a rule under the Act providing substantially similar relief to that in the order requested in the application, the requested order will expire on the effective date of that rule.

14. Any new Subadvisory Agreement or any changes to an Investment Advisory Agreement or to a Subadvisory Agreement that directly or indirectly results in an increase in the aggregate advisory rate charged to a Subadvised Fund will be required to be approved by the shareholders of the Subadvised Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–02916 Filed 2–11–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74221; File No. SR–BOX–2015–11]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Market LLC Options Facility

February 6, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 30, 2015, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule on the BOX Market LLC (''BOX'') options facility. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for trading on BOX. Specifically, the Exchange proposes to amend the BOX Volume Rebate (''BVR'') in Section I.B.2 of the Fee Schedule (Auction Transactions).

Under the current BVR, the Exchange offers a tiered per contract rebate for all PIP Orders and COPIP Orders of 250 contracts and under. PIP and COPIP executions of 250 contracts and under are awarded a per contract rebate according to the Participant's Monthly Average Daily Volume (''ADV'') in PIP and COPIP transactions. Each Participant's monthly ADV is based on PIP and COPIP quantity submitted and calculated at the end of each month.[5]

The current per contract rebate for Participants in PIP and COPIP Transactions under the BVR is:

Monthly ADV in PIP and COPIP transactions	Per contract rebate (all account types)	
	PIP	COPIP
100,001 contracts and greater	($0.17)	($0.08)
40,001 contracts to 100,000 contracts	(0.14)	(0.06)
20,001 contracts to 40,000 contracts	(0.07)	(0.04)
1 contract to 20,000 contracts	(0.00)	(0.00)

The Exchange proposes to adjust the BVR contract threshold and now offer the tiered per contract rebate for all PIP Orders and COPIP Orders of 100 contracts and under. The quantity submitted will remain based on a Participant's monthly ADV as calculated at the end of each month.

Additionally, the Exchange proposes to lower the rebates associated with each volume tier. The new BVR set forth in Section I.B.2 of the BOX Fee Schedule will be as follows:

Monthly ADV in PIP and COPIP transactions	Per contract rebate (all account types)	
	PIP	COPIP
100,001 contracts and greater	($0.14)	($0.06)
40,001 contracts to 100,000 contracts	(0.11)	(0.04)
20,001 contracts to 40,000 contracts	(0.04)	(0.02)
1 contract to 20,000 contracts	(0.00)	(0.00)

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes the proposed amendments to the BVR in Section I.B.2 are reasonable, equitable and non-discriminatory. The BVR was adopted to attract Public Customer order flow to the Exchange by offering these Participants incentives to submit their PIP and COPIP Orders to the Exchange. Other Exchange [sic] employ similar incentive programs.[7] The Exchange believes it is reasonable and appropriate to continue to provide incentives for Public Customers, which will result in greater liquidity and ultimately benefit all Participants trading on the Exchange. The Exchange believes providing a rebate to Participants that reach a certain volume threshold is equitable and non-discriminatory as the rebate will apply to all Participants uniformly.

The Exchange believes it is reasonable, equitable and non-discriminatory to restrict the BVR to PIP and COPIP Orders of 100 contracts and under. The BVR is intended to incentivize Participants to direct Customer order flow to the Exchange, which is typically comprised of small order sizes. The Exchange has found that orders of more than 100 contracts are typically larger institutional orders. Further, these larger orders are encouraged to use the Facilitation and Solicitation Auction mechanisms.[8] The Exchange believes restricting the BVR to PIP and COPIP Orders of 100 contracts and under is equitable and non-discriminatory as this will apply to all Participants uniformly.

The Exchange believes that lowering the rebates associated with each volume tier is reasonable and competitive when compared to rebate structures at other exchanges.[9] Once the volume threshold is met, the Exchange will continue [sic] pay the rebates on applicable PIP and COPIP Orders. The Exchange also believes the proposed rebates are equitable and not unfairly discriminatory because Participants are eligible to receive a rebate provided they meet both the volume and order type requirements. The Exchange believes that applying the rebate to PIP and COPIP Orders will continue to provide these Participants with an added incentive to transact a greater number of Public Customer Orders on the Exchange to the benefit of all market participants.

[5] For purposes of calculating monthly ADV, BOX will count as a half day any day that the market closes early for a holiday observance.

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] *See* Section B of the Phlx Pricing Schedule entitled ''Customer Rebate Program'' and CBOE's Volume Incentive Program (VIP). CBOE's Volume Incentive Program (''VIP'') pays certain tiered rebates to Trading Permit Holders for electronically executed multiply-listed option orders which include AIM orders. Note that these exchanges base these rebate programs on the percentage of total national Public Customer volume traded on their respective exchanges, which the Exchange is not proposing to do.

[8] The Faciliation [sic] Auction and Solicitation Auction were designed to give market participants mechanisms for large block orders. *See* Securities Exchange Act Release No. 65387 (September 23, 2011), 76 FR 60569 (September 29, 2011) (Order Approving Proposed Rule Change of SR–BX–2011–034).

[9] *See supra,* note 7.

Finally, the Exchange believes that it is equitable and not unfairly discriminatory to continue to provide a higher rebate for PIP Orders than COPIP Orders. The rebate is intended to incentivize Participants to submit PIP and COPIP Orders to the Exchange and the Exchange believes that COPIP Orders do not need the same level of incentivization. The Exchange believes the lower COPIP rebate will still provide greater liquidity and trading opportunities for all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed fee changes are reasonably designed to enhance competition in BOX transactions, particularly auction transactions.

The proposed rule change modifies the contract threshold and tiered rebates awarded to Participants based on their monthly ADV in PIP and COPIP. BOX notes that its market model and fees are generally intended to benefit retail customers by providing incentives for Participants to submit their customer order flow to BOX, and to the PIP and COPIP in particular. The Exchange does not believe that the proposed fee change burdens competition and will instead help promote competition by continuing to providing [sic] incentives for market participants to submit customer order flow to BOX and thus, create a greater opportunity for retail customers to receive additional price improvement.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act [10] and Rule 19b–4(f)(2) thereunder,[11] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2015–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2015–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2015–11, and should be submitted on or before March 5, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2015–02894 Filed 2–18–15; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74222; File No. SR–NYSE–2015–05]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Include Internet Protocol Network Connections and Fiber Cross Connects Between a User's Cabinet and Non-User's Equipment as Co-Location Services

February 6, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on January 26, 2015, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to provide that the co-location services offered by the Exchange include 1 Gigabit (''Gb'') and 10 Gb Internet Protocol (''IP'') network connections in the Exchange's data center and fiber cross connects (''cross connects'') between a Users' [sic] cabinet and non-User's equipment. In addition, the proposed rule change reflects changes to the Exchange's Price List related to these co-location services. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to change its rules to provide that the co-location [4] services offered by the Exchange include 1 Gb and 10 Gb IP network connections in the Exchange's data center and cross connects between a User's cabinet and non-User's equipment. In addition, this proposed rule change reflects changes to the Exchange's Price List related to these co-location services.[5]

IP Network Connections

The Exchange offers Users access to the Exchange's Liquidity Center Network (''LCN''), a local area network available in the data center.[6] The LCN provides Users with access to the Exchange's trading and execution systems and to the Exchange's proprietary market data products.

This proposed rule change would provide that Users may also purchase access to the IP network, a second local area network available in the Exchange's data center. Like the LCN, the IP network provides Users with access to the Exchange's trading and execution systems and to the Exchanges' proprietary market data products. The IP network also provides Users with access to away market data products. There is greater latency in the transmission of data between Users and the Exchange for the IP Network than for the LCN.

A User is currently able to select from two ''bundled'' connectivity options, at 1 Gb and 10 Gb, when connecting to the data center.[7] Both options include two connections referred to as ''SFTI'' connections. These bundled ''SFTI'' connections are IP network connections; the reference to ''SFTI'' is a reflection of the fact that the IP network is sometimes referred to as the ''SFTI IP'' network. To conform the references to the IP network in the Price List, the Exchange proposes to revise the description of the bundled connectivity options to remove the reference to ''SFTI'' and update it to ''IP network.''

In addition, the Exchange proposes to change its rules to provide that the co-location services offered by the Exchange include 1 Gb and 10 Gb IP network connections in the Exchange's data center.[8] The Exchange also proposes to revise its Price List to reflect fees related to these IP network connections as follows:

Type of service	Description	Amount of charge
IP Network Access	1 Gb Circuit	$2,500 per connection initial charge plus $2,500 monthly per connection.
IP Network Access	10 Gb Circuit	$10,000 per connection initial charge plus $10,000 monthly per connection.

By comparison, the 1 Gb LCN circuit costs $6,000 per connection initial charge plus $5,000 monthly per connection. The 10 Gb LCN circuit costs $10,000 per connection initial charge plus $12,000 monthly per connection, while the LCN 10 Gb LX, a second LCN option that has a lower latency than the 10 Gb LCN circuit, costs $15,000 per connection initial charge plus $20,000 monthly per connection.[9]

The IP network provides Users that do not need the lower latency of the LCN with a less costly data center network option. Having another data center network also provides Users with the option to create redundancy in their infrastructure. The offering of either a 1 Gb or 10 Gb IP network connection provides Users more choices regarding the bandwidth of their network connections.

Cross Connects

Cross connects are fiber connections used to connect cabinets within the data center. Cross connects may be used between a User's own cabinets or between its cabinet(s) and those of another User.[10] A cross connect may be used to connect cabinets of separate Users when, for example, a User receives technical support, order routing and/or market data delivery services from another User in the data center. A User is able to purchase cross connects individually or in bundles (*i.e.,* multiple cross connects within a single sheath) of six, 12, 18 or 24 cross connects.

The Exchange proposes to amend the Price List for individual and bundled cross connects to include cross-connects between a User's cabinet and a non-User's equipment within the data center. Non-Users with equipment in the data center include the Exchange and third-party carriers. For example, a User may utilize a cross connect with a non-User to connect to a carrier's equipment in order to access the carrier's network outside the data center. Such cross connects do not provide direct access to the Exchange's trading and execution systems and do

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 62960 (September 21, 2010), 75 FR 59310 (September 27, 2010) (SR–NYSE–2010–56) (the ''Original Co-location Filing''). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users.

[5] For purposes of the Exchange's co-location services, the term ''User'' includes (i) member organizations, as that term is defined in NYSE Rule 2(b); (ii) Sponsored Participants, as that term is defined in NYSE Rule 123B.30(a)(ii)(B); and (iii) non-member organization broker-dealers and vendors that request to receive co-location services directly from the Exchange. *See, e.g.,* Securities Exchange Act Release No. 65973 (December 15, 2011), 76 FR 79232 (December 21, 2011) (SR–NYSE–2011–53). As specified in the Price List, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates NYSE MKT LLC and NYSE Arca, Inc. *See* Securities Exchange Act Release No. 70206 (August 15, 2013), 78 FR 51765 (August 21, 2013) (SR–NYSE–2013–59).

[6] *See* Original Co-location Filing, at 59311. *See also* Securities Exchange Act Release No. 67666 (August 15, 2012), 77 FR 50742 (August 22, 2012) (SR–NYSE–2012–18) (''August 2012 Rule Change'').

[7] *See* Securities Exchange Act Release No. 72721 (July 30, 2014), 79 FR 45562 (August 5, 2014) (SR–NYSE–2014–37).

[8] The Exchange makes an IP network circuit available to Users for testing and certification purposes at no charge. Such circuit can only be used for testing and certification and is limited to three months. The Exchange proposes to add language to the Price List to include this practice.

[9] *See* Securities Exchange Act Release No. 70888 (November 15, 2013), 78 FR 69907 (November 21, 2013) (SR–NYSE–2013–73).

[10] The Commission approved the fee for cross connects between a single User's cabinets within the data center in the Original Co-Location Filing. *See* Original Co-Location Filing, at 59311. The use of cross connects was subsequently revised to allow each User to purchase cross connects between its cabinet(s) and the cabinets of separate Users. *See* August 2012 Rule Change, at 50742.

not change the fact that only Users that are authorized to obtain access to the Exchange trading and execution systems can do so.

The Exchange proposes to amend the existing cross connect fee in the Price List accordingly. Specifically, the existing Price List text that describes cross connects as being ''between cabinets within the data center'' would be removed. The existing pricing for individual and bundled cross connects would not change.

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.,* a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis; [11] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its affiliates.[12]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Sections 6(b)(5) of the Act,[14] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the IP network connections are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the IP network connections provide an alternative to Users that do not require the lower latency levels of the LCN for all of their business operations. Users that do require lower latency levels for all of their business operations may utilize only LCN connections. The Exchange believes that this removes impediments to, and perfects the mechanisms of, a free and open market and a national market system and, in general, protects investors and the public interest because it provides Users with additional choices with respect to both the optimal latency and, by including 1 Gb and 10 Gb IP network connection options, the optimal bandwidth option for their network connections. Having data center networks to choose from also provides Users with the option to create redundancy in their infrastructure. In addition, the Exchange believes that the proposed revision of the description of the bundled connectivity options to remove the reference to ''SFTI'' and update it to ''IP network'' removes impediments to, and perfects the mechanisms of, a free and open market and a national market system and, in general, protects investors and the public interest because conforming the references to the IP network will add clarity to the Price List. The Exchange believes that providing Users with an IP network circuit solely for testing and certification purposes for three months at no charge protects investors and the public interest because it encourages Users to conduct testing and certification.

The Exchange believes that the cross connects between Users and non-Users are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the proposed change makes a third use for cross connections available to Users, but Users that do not require such connections may continue to utilize existing cross connects as they need. The Exchange believes that this removes impediments to, and perfects the mechanisms of, a free and open market and a national market system and, in general, protects investors and the public interest because cross connects between Users' cabinets and non-Users' equipment assist Users in meeting the growing needs of their business operations by facilitating connections with non-Users.

The Exchange also believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[15] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

Overall, the Exchange believes that the proposed change is reasonable because the Exchange proposes to offer the co-location services described herein (*i.e.,* the IP network connections and additional cross connects) as a convenience to Users, but in doing so will incur certain costs, including costs related to the data center facility, hardware and equipment and costs related to personnel required for initial installation and monitoring, support and maintenance of such services. In addition, the Exchange believes that the proposed revision of the description of the bundled connectivity options to remove the reference to ''SFTI'' and update it to ''IP network'' is reasonable because conforming the references to the IP network will add clarity to the Price List.

The Exchange believes that the proposed pricing for IP network connections is reasonable because IP network connections are a more economical option for certain Users that do not require the lower latency levels of the LCN for all of their business operations. The proposed pricing for IP network connections is also reasonable because it allows Users to select network options that are better suited for their needs. Some Users do not need lower latency levels for all of their business operations, and IP network connections provide them the option to utilize network connections with higher latency levels but lower fees than the LCN. The availability of 1 Gb and 10 Gb options allow Users to select the bandwidth option that suits their needs. In addition, the Exchange believes that the proposed revision of the description of the bundled connectivity options to remove the reference to ''SFTI'' and update it to ''IP network'' is reasonable because it will conform the references to

[11] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[12] *See* SR–NYSE–2013–59, *supra* note 5 at 51766. The Exchange's affiliates have also submitted the same proposed rule change to propose the changes described herein. *See* SR–NYSEMKT–2015–08 and SR–NYSEArca–2015–03.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(4).

the IP network in the Price List The Exchange believes that providing Users with an IP network circuit solely for testing and certification purposes for three months at no charge is reasonable because providing the IP network circuit at no charge encourages Users to conduct testing and certification.

The Exchange believes that it is reasonable to charge the same amount for cross connects regardless of whether the cross connects are between the cabinets of a single User, between the cabinets of separate Users or between a User and non-User, because the cross connect hardware and costs the Exchange incurs are substantially the same in each case.

The Exchange believes that the proposed change is equitable and not unfairly discriminatory because it will result in fees being charged only to Users that voluntarily select to receive the corresponding services and because those services will be available to all Users. Furthermore, the Exchange believes that the services and fees proposed herein are not unfairly discriminatory and are equitably allocated because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (*i.e.,* the same products and services are available to all Users).

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[16] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis (*i.e.* the same products and services are available to all Users).

The Exchange believes that allowing Users to purchase access to the IP network will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because such access will satisfy User demand for more cost-effective, higher latency connections. The proposed changes also enhance competition by helping Users tailor their data center network connections to the growing needs of their business operations and by adding clarity to the Price List by conforming the references to the IP network. The Exchange also believes that the cross connects between Users' cabinets and non-Users' equipment will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the cross connects will satisfy User demand for more flexibility in the Users' use of cross connects. The proposed change also enhances competition by helping Users tailor their co-located systems to the varying needs of their business operations.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its services and related fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[21] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2015–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2015–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

[16] 15 U.S.C. 78f(b)(8).

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] 15 U.S.C. 78s(b)(2)(B).

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2015–05, and should be submitted on or before March 5, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Brent J. Fields,

Secretary.

[FR Doc. 2015–02895 Filed 2–11–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74224; File No. SR–ISE–2015–05]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the SPY Pilot Program

February 6, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 4, 2015, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The ISE proposes to amend its rules to extend the pilot program that eliminated position and exercise limits for physically-settled options on the SPDR S&P ETF Trust (''SPY'') (''SPY Pilot Program''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Supplementary Material .01 to Rule 412 and Supplementary Material .01 to Rule 414 to extend the duration of the SPY Pilot Program through July 12, 2015, consistent with proposed rule changes filed by other options exchanges.[3] This filing does not propose any substantive changes to the SPY Pilot Program. In proposing to extend the SPY Pilot Program, the Exchange reaffirms its consideration of several factors that supported the original proposal of the SPY Pilot Program, including (1) the liquidity of the option and the underlying security, (2) the market capitalization of the underlying security and the related index, (3) the reporting of large positions and requirements surrounding margin, and (4) financial requirements imposed by ISE and the Commission.

With this proposed extension to the SPY Pilot Program, the Exchange has submitted a report to the Commission reflecting the trading of standardized SPY options without position limits from January through December, 2014. The report was prepared in the manner specified in the filing extending the SPY Pilot Program to the current pilot end date of February 5, 2015. The Exchange notes that it is unaware of any problems created by the SPY Pilot Program and does not foresee any as a result of the proposed extension.

The Exchange represents that it will submit a new pilot report at least thirty (30) days before the end of the extended SPY Pilot Program, which will cover the extended pilot period. The Pilot Report will detail the size and different types of strategies employed with respect to positions established as a result of the elimination of position limits in SPY. In addition, the Pilot Report will note whether any problems resulted due to the no limit approach and any other information that may be useful in evaluating the effectiveness of the SPY Pilot Program. The Pilot Report will compare the impact of the SPY Pilot Program, if any, on the volumes of SPY options and the volatility in the price of the underlying SPY shares, particularly at expiration. In preparing the report the Exchange will utilize various data elements such as volume and open interest. In addition the Exchange will make available to Commission staff data elements relating to the effectiveness of the SPY Pilot Program.

Conditional on the findings in the Pilot Report, the Exchange will file with the Commission a proposal to extend the pilot program, adopt the pilot program on a permanent basis or terminate the pilot. If the SPY Pilot Program is not extended or adopted on a permanent basis by the expiration of the extended pilot, the position limits for SPY would revert to limits in effect at the commencement of the SPY Pilot Program.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[4] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[5] because it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 73846 (December 16, 2014), 79 FR 76415 (December 22, 2014) (SR–MIAX–2014–64); 73847 (December 16, 2014), 79 FR 76426 (December 22, 2014) (SR–NYSEMKT–2014–106); 72142 (May 9, 2014), 79 FR 27961 (May 15, 2014) (SR–NASDAQ–2014–052); and 72143 (May 9, 2014), 79 FR 27963 (May 15, 2014) (SR–BX–2014–025).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

general, to protect investors and the public interest.

The Exchange believes that extending the SPY Pilot Program promotes just and equitable principles of trade by permitting market participants, including market makers, institutional investors and retail investors, to establish greater positions when pursuing their investment goals and needs. The Exchange also believes that economically equivalent products should be treated in an equivalent manner so as to avoid regulatory arbitrage, especially with respect to position limits. Treating SPY and SPX options differently by virtue of imposing different position limits is inconsistent with the notion of promoting just and equitable principles of trade and removing impediments to perfect the mechanisms of a free and open market. At the same time, the Exchange believes that the elimination of position limits for SPY options would not increase market volatility or facilitate the ability to manipulate the market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act[6] in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any aspect of competition, whether between the Exchange and its competitors, or among market participants. Instead the proposed rule change is designed to allow the SPY Pilot Program to continue as other SROs have adopted similar provisions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow the SPY Pilot Program to continue uninterrupted. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2015–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2015–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2015–05, and should be submitted on or before March 5, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2015–02896 Filed 2–11–15; 8:45 am]

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[6] 15 U.S.C. 78f(b)(8).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74220; File No. SR–NYSEMKT–2015–08]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Include Internet Protocol Network Connections and Fiber Cross Connects Between a User's Cabinet and Non-User's Equipment as Co-Location Services

February 6, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on January 26, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to provide that the co-location services offered by the Exchange include 1 gigabit (''Gb'') and 10 Gb internet protocol (''IP'') network connections in the Exchange's data center and fiber cross connects (''cross connects'') between a Users' [sic] cabinet and non-User's equipment. In addition, the proposed rule change reflects changes to the NYSE MKT Equities Price List (''Price List'') and the NYSE Amex Options Fee Schedule (''Fee Schedule'') related to these co-location services. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to change its rules to provide that the co-location [4] services offered by the Exchange include 1 Gb and 10 Gb IP network connections in the Exchange's data center and cross connects between a User's cabinet and non-User's equipment. In addition, this proposed rule change reflects changes to the Price List and the Fee Schedule related to these co-location services.[5]

IP Network Connections

The Exchange offers Users access to the Exchange's Liquidity Center Network (''LCN''), a local area network available in the data center.[6] The LCN provides Users with access to the Exchange's trading and execution systems and to the Exchange's proprietary market data products.

This proposed rule change would provide that Users may also purchase access to the IP network, a second local area network available in the Exchange's data center. Like the LCN, the IP network provides Users with access to the Exchange's trading and execution systems and to the Exchanges' proprietary market data products. The IP network also provides Users with access to away market data products. There is greater latency in the transmission of data between Users and the Exchange for the IP Network than for the LCN.

A User is currently able to select from two ''bundled'' connectivity options, at 1 Gb and 10 Gb, when connecting to the data center.[7] Both options include two connections referred to as ''SFTI'' connections. These bundled ''SFTI'' connections are IP network connections; the reference to ''SFTI'' is a reflection of the fact that the IP network is sometimes referred to as the ''SFTI IP'' network. To conform the references to the IP network in the Price List and the Fee Schedule, the Exchange proposes to revise the description of the bundled connectivity options to remove the reference to ''SFTI'' and update it to ''IP network.''

In addition, the Exchange proposes to change its rules to provide that the co-location services offered by the Exchange include 1 Gb and 10 Gb IP network connections in the Exchange's data center.[8] The Exchange also proposes to revise its Price List and the Fee Schedule to reflect fees related to these IP network connections as follows:

Type of service	Description	Amount of charge
IP Network Access	1 Gb Circuit	$2,500 per connection initial charge plus $2,500 monthly per connection.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. 62961 (September 21, 2010), 75 FR 59299 (September 27, 2010) (SR–NYSEAmex–2010–80) (the ''Original Co-location Filing''). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users.

[5] For purposes of the Exchange's co-location services, the term ''User'' includes (i) member organizations, as that term is defined in the definitions section of the General and Floor Rules of the NYSE MKT Equities Rules, and ATP Holders, as that term is defined in NYSE Amex Options Rule 900.2NY(5); (ii) Sponsored Participants, as that term is defined in Rule 123B.30(a)(ii)(B)—Equities and NYSE Amex Options Rule 900.2NY(77); and (iii) non-member organization and non-ATP Holder broker-dealers and vendors that request to receive co-location services directly from the Exchange. *See, e.g.,* Securities Exchange Act Release Nos. 65974 (December 15, 2011), 76 FR 79249 (December 21, 2011) (SR–NYSEAmex–2011–81) and 65975 (December 15, 2011), 76 FR 79233 (December 21, 2011) (SR–NYSEAmex–2011–82). As specified in the Price List and the Fee Schedule, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC and NYSE Arca, Inc. *See* Securities Exchange Act Release No. 70176 (August 13, 2013), 78 FR 50471 (August 19, 2013) (SR–NYSEMKT–2013–67).

[6] *See* Original Co-location Filing, at 59299. *See also* Securities Exchange Act Release No. 67665 (August 15, 2012), 77 FR 50734 (August 22, 2012) (SR–NYSEMKT–2012–11) (''August 2012 Rule Change'').

[7] *See* Securities Exchange Act Release No. 72719 (July 30, 2014), 79 FR 45502 (August 5, 2014) (SR–NYSEMKT–2014–61).

[8] The Exchange makes an IP network circuit available to Users for testing and certification purposes at no charge. Such circuit can only be used for testing and certification and is limited to three months. The Exchange proposes to add language to the Price List to include this practice.

Type of service	Description	Amount of charge
IP Network Access	10 Gb Circuit	$10,000 per connection initial charge plus $10,000 monthly per connection.

By comparison, the 1 Gb LCN circuit costs $6,000 per connection initial charge plus $5,000 monthly per connection. The 10 Gb LCN circuit costs $10,000 per connection initial charge plus $12,000 monthly per connection, while the LCN 10 Gb LX, a second LCN option that has a lower latency than the 10 Gb LCN circuit, costs $15,000 per connection initial charge plus $20,000 monthly per connection.[9]

The IP network provides Users that do not need the lower latency of the LCN with a less costly data center network option. Having another data center network also provides Users with the option to create redundancy in their infrastructure. The offering of either a 1 Gb or 10 Gb IP network connection provides Users more choices regarding the bandwidth of their network connections.

Cross Connects

Cross connects are fiber connections used to connect cabinets within the data center. Cross connects may be used between a User's own cabinets or between its cabinet(s) and those of another User.[10] A cross connect may be used to connect cabinets of separate Users when, for example, a User receives technical support, order routing and/or market data delivery services from another User in the data center. A User is able to purchase cross connects individually or in bundles (*i.e.,* multiple cross connects within a single sheath) of six, 12, 18 or 24 cross connects.

The Exchange proposes to amend the Price List and the Fee Schedule for individual and bundled cross connects to include cross-connects between a User's cabinet and a non-User's equipment within the data center. Non-Users with equipment in the data center include the Exchange and third-party carriers. For example, a User may utilize a cross connect with a non-User to connect to a carrier's equipment in order to access the carrier's network outside the data center. Such cross connects do not provide direct access to the Exchange's trading and execution systems and do not change the fact that only Users that are authorized to obtain access to the Exchange trading and execution systems can do so.

The Exchange proposes to amend the existing cross connect fee in the Price List and the Fee Schedule accordingly. Specifically, the existing Price List and Fee Schedule text that describes cross connects as being ''between cabinets within the data center'' would be removed. The existing pricing for individual and bundled cross connects would not change.

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.,* a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis; [11] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its affiliates.[12]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Sections 6(b)(5) of the Act,[14] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the IP network connections are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the IP network connections provide an alternative to Users that do not require the lower latency levels of the LCN for all of their business operations. Users that do require lower latency levels for all of their business operations may utilize only LCN connections. The Exchange believes that this removes impediments to, and perfects the mechanisms of, a free and open market and a national market system and, in general, protects investors and the public interest because it provides Users with additional choices with respect to both the optimal latency and, by including 1 Gb and 10 Gb IP network connection options, the optimal bandwidth option for their network connections. Having data center networks to choose from also provides Users with the option to create redundancy in their infrastructure. In addition, the Exchange believes that the proposed revision of the description of the bundled connectivity options to remove the reference to ''SFTI'' and update it to ''IP network'' removes impediments to, and perfects the mechanisms of, a free and open market and a national market system and, in general, protects investors and the public interest because conforming the references to the IP network will add clarity to the Price List and the Fee Schedule. The Exchange believes that providing Users with an IP network circuit solely for

[9] *See* Securities Exchange Act Release No. 70886 (November 15, 2013), 78 FR 69904 (November 21, 2013) (SR–NYSEMKT–2013–92).

[10] The Commission approved the fee for cross connects between a single User's cabinets within the data center in the Original Co-Location Filing. *See* Original Co-Location Filing, at 59299. The use of cross connects was subsequently revised to allow each User to purchase cross connects between its cabinet(s) and the cabinets of separate Users. *See* August 2012 Rule Change, at 50735.

[11] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[12] *See* SR–NYSEMKT–2013–67, *supra* note 5 at 50471. The Exchange's affiliates have also submitted the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2015–03 and SR–NYSEArca-2015–01.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

testing and certification purposes for three months at no charge protects investors and the public interest because it encourages Users to conduct testing and certification.

The Exchange believes that the cross connects between Users and non-Users are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the proposed change makes a third use for cross connections available to Users, but Users that do not require such connections may continue to utilize existing cross connects as they need. The Exchange believes that this removes impediments to, and perfects the mechanisms of, a free and open market and a national market system and, in general, protects investors and the public interest because cross connects between Users' cabinets and non-Users' equipment assist Users in meeting the growing needs of their business operations by facilitating connections with non-Users.

The Exchange also believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[15] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

Overall, the Exchange believes that the proposed change is reasonable because the Exchange proposes to offer the co-location services described herein (*i.e.,* the IP network connections and additional cross connects) as a convenience to Users, but in doing so will incur certain costs, including costs related to the data center facility, hardware and equipment and costs related to personnel required for initial installation and monitoring, support and maintenance of such services. In addition, the Exchange believes that the proposed revision of the description of the bundled connectivity options to remove the reference to ''SFTI'' and update it to ''IP network'' is reasonable because conforming the references to the IP network will add clarity to the Price List and the Fee Schedule.

The Exchange believes that the proposed pricing for IP network connections is reasonable because IP network connections are a more economical option for certain Users that do not require the lower latency levels of the LCN for all of their business operations. The proposed pricing for IP network connections is also reasonable because it allows Users to select network options that are better suited for their needs. Some Users do not need lower latency levels for all of their business operations, and IP network connections provide them the option to utilize network connections with higher latency levels but lower fees than the LCN. The availability of 1 Gb and 10 Gb options allow Users to select the bandwidth option that suits their needs. In addition, the Exchange believes that the proposed revision of the description of the bundled connectivity options to remove the reference to ''SFTI'' and update it to ''IP network'' is reasonable because it will conform the references to the IP network in the Price List and the Fee Schedule. The Exchange believes that providing Users with an IP network circuit solely for testing and certification purposes for three months at no charge is reasonable because providing the IP network circuit at no charge encourages Users to conduct testing and certification.

The Exchange believes that it is reasonable to charge the same amount for cross connects regardless of whether the cross connects are between the cabinets of a single User, between the cabinets of separate Users or between a User and non-User, because the cross connect hardware and costs the Exchange incurs are substantially the same in each case.

The Exchange believes that the proposed change is equitable and not unfairly discriminatory because it will result in fees being charged only to Users that voluntarily select to receive the corresponding services and because those services will be available to all Users. Furthermore, the Exchange believes that the services and fees proposed herein are not unfairly discriminatory and are equitably allocated because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (*i.e.,* the same products and services are available to all Users).

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

[15] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[16] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis (*i.e.* the same products and services are available to all Users).

The Exchange believes that allowing Users to purchase access to the IP network will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because such access will satisfy User demand for more cost-effective, higher latency connections. The proposed changes also enhance competition by helping Users tailor their data center network connections to the growing needs of their business operations and by adding clarity to the Price List and the Fee Schedule by conforming the references to the IP network. The Exchange also believes that the cross connects between Users' cabinets and non-Users' equipment will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the cross connects will satisfy User demand for more flexibility in the Users' use of cross connects. The proposed change also enhances competition by helping Users tailor their co-located systems to the varying needs of their business operations.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its services and related fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[16] 15 U.S.C. 78f(b)(8).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [17] and Rule 19b–4(f)(6) thereunder.[18] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [21] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2015–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2015–08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2015–08, and should be submitted on or before March 5, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Brent J. Fields,

Secretary.

[FR Doc. 2015–02893 Filed 2–11–15; 8:45 am]

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[17] 15 U.S.C. 78s(b)(3)(A)(iii).
[18] 17 CFR 240.19b–4(f)(6).
[19] 17 CFR 240.19b–4(f)(6).
[20] 17 CFR 240.19b–4(f)(6)(iii).
[21] 15 U.S.C. 78s(b)(2)(B).
[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74225; File No. SR–MIAX–2015–05]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the Closing Date of the Equity Rights Program

February 6, 2015.

Pursuant to the provisions of section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 27, 2015, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to modify the closing date of the equity rights program. The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 6, 2015, the Exchange filed a rule change to implement an

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.

equity rights program (''Program'') pursuant to which units representing the right to acquire equity in the Exchange's parent holding company, Miami International Holdings, Inc. (''MIH'') would be issued to a participating Member in exchange for payment of an initial purchase price or the prepayment of certain transaction fees and the achievement of certain liquidity volume thresholds on the Exchange over a 29-month period.[3] All applicants are subject to the same eligibility and designation criteria, and all participant Members participate in the Program on the same terms, conditions and restrictions. To be designated as a participant Member, an applicant must: (i) Be a Member in good standing of MIAX; (ii) qualify as an ''accredited investor'' as such term is defined in Regulation D of the Securities Act of 1933; and (iii) have executed all required documentation for Program participation. Participant Members must have executed the definitive documentation, satisfied the eligibility criteria required of Program participants enumerated above, and tendered the minimum cash investment or prepayment of fees by January 27, 2015, with a closing to occur on January 30, 2015.

Because all prospective participant Members are not able to execute the definitive documentation, satisfy the eligibility criteria required of Program participants, and tender the minimum cash investment or prepayment of fees by the January 27, 2015 deadline, the Exchange proposes to make a reasonable accommodation to all prospective participant Members. Accordingly, the Exchange proposes to extend the deadline, by which Participant Members must have executed the definitive documentation, satisfied the eligibility criteria required of Program participants, and tendered the minimum cash investment or prepayment of fees must be submitted [sic] to the Exchange, by 3 days to January 30, 2015, with a closing to occur on February 2, 2015. The Exchange will initiate the measurement period on February 1, 2015, as previously prescribed.[4] This extension will allow all Members desiring to participate in the Program to subscribe. In making such accommodation, no prospective Participant Member will be impaired in their ability to participate in the Program.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with section 6(b) of the Act[5] in general, and furthers the objectives of section 6(b)(5) of the Act[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5) of the Act[7] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with section 6(b)(4) of the Act,[8] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

In particular, the proposed rule change is reasonable, equitable and not unfairly discriminatory because it proposes to make a reasonable accommodation to all prospective participant Members who wish to participate in the Program. This will ensure that no prospective participant Member to the Program would be impaired in their ability to participate in the Program.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will improve competition by allowing all market participants to subscribe to the Program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act.[9] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MIAX–2015–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2015–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE.,

[3] *See* Securities Exchange Act Release No. 74095 (January 20, 2015), 80 FR 4011 (January 26, 2015) (SR–MIAX–2015–02).

[4] *See id.*

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–MIAX–2015–05 and should be submitted on or before March 5, 2015. For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

[FR Doc. 2015–02897 Filed 2–11–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74219; File No. SR–NYSEARCA–2015–03]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Include Internet Protocol Network Connections and Fiber Cross Connects Between a User's Cabinet and Non-User's Equipment as Co-Location Services

February 6, 2015.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on January 26, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to provide that the co-location services offered by the Exchange include 1 Gigabit (''Gb'') and 10 Gb Internet Protocol (''IP'') network connections in the Exchange's data center and fiber cross connects (''cross connects'') between a User's cabinet and non-User's equipment. In addition, the proposed rule change reflects changes to the Exchange's Price List related to these co-location services. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to change its rules to provide that the co-location[4] services offered by the Exchange include 1 Gb and 10 Gb IP network connections in the Exchange's data center and cross connects between a User's cabinet and non-User's equipment. In addition, this proposed rule change reflects changes to the the [sic] Fee Schedules related to these co-location services.[5]

IP Network Connections

The Exchange offers Users access to the Exchange's Liquidity Center Network (''LCN''), a local area network available in the data center.[6] The LCN provides Users with access to the Exchange's trading and execution systems and to the Exchange's proprietary market data products.

This proposed rule change would provide that Users may also purchase access to the IP network, a second local area network available in the Exchange's data center.[7] Like the LCN, the IP network provides Users with access to the Exchange's trading and execution systems and to the Exchanges' proprietary market data products. The IP network also provides Users with access to away market data products. There is greater latency in the transmission of data between Users and the Exchange for the IP Network than for the LCN.

A User is currently able to select from two ''bundled'' connectivity options, at 1 Gb and 10 Gb, when connecting to the data center.[8] Both options include two connections referred to as ''SFTI'' connections. These bundled ''SFTI'' connections are IP network connections; the reference to ''SFTI'' is a reflection of the fact that the IP network is sometimes referred to as the ''SFTI IP'' network. To conform the references to the IP network in the Fee Schedules, the Exchange proposes to revise the description of the bundled connectivity options to remove the reference to ''SFTI'' and update it to ''IP network.''

In addition, the Exchange proposes to change its rules to provide that the co-location services offered by the Exchange include 1 Gb and 10 Gb IP network connections in the Exchange's data center. The Exchange also proposes to revise the Fee Schedules to reflect fees related to these IP network connections as follows:

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange initially filed rule changes relating to its co-location services with the Securities and Exchange Commission (''Commission'') in 2010. *See* Securities Exchange Act Release No. Securities Exchange Act Release No. 63275 (November 8, 2010), 75 FR 70048 (November 16, 2010) (SR–NYSEArca–2010–100) (the ''Original Co-location Filing''). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users.

[5] For purposes of the Exchange's co-location services, the term ''User'' includes (i) ETP Holders and Sponsored Participants that are authorized to obtain access to the NYSE Arca Marketplace pursuant to NYSE Arca Equities Rule 7.29 (*see* NYSE Arca Equities Rule 1.1(yy)); (ii) OTP Holders, OTP Firms and Sponsored Participants that are authorized to obtain access to the NYSE Arca System pursuant to NYSE Arca Options Rule 6.2A (*see* NYSE Arca Options Rule 6.1A(a)(19)); and (iii) non-ETP Holder, non-OTP Holder and non-OTP Firm broker-dealers and vendors that request to receive co-location services directly from the Exchange. *See, e.g.,* Securities Exchange Act Release Nos. 65970 (December 15, 2011), 76 FR 79242 (December 21, 2011) (SR–NYSEArca–2011–74) and 65971 (December 15, 2011), 76 FR 79267 (December 21, 2011) (SR–NYSEArca–2011–75). As specified in the Fee Schedules, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates NYSE MKT LLC and New York Stock Exchange LLC. *See* Securities Exchange Act Release No. 70173 (August 13, 2013), 78 FR 50459 (August 19, 2013) (SR–NYSEArca–2013–80).

[6] *See* Original Co-location Filing, at 70049. *See also* Securities Exchange Act Release No. 67667 (August 15, 2012), 77 FR 50743 (August 22, 2012) (SR–NYSE Arca–2012–63) (''August 2012 Rule Change'').

[7] The Exchange makes an IP network circuit available to Users for testing and certification purposes at no charge. Such circuit can only be used for testing and certification and is limited to three months. The Exchange proposes to add language to the Price List to include this practice.

[8] *See* Securities Exchange Act Release No. 72720 (July 30, 2014), 79 FR 45577 (August 5, 2014) (SR–NYSEArca–2014–81).

Type of service	Description	Amount of charge
IP Network Access	1 Gb Circuit	$2,500 per connection initial charge plus $2,500 monthly per connection.
IP Network Access	10 Gb Circuit	$10,000 per connection initial charge plus $10,000 monthly per connection.

By comparison, the 1 Gb LCN circuit costs $6,000 per connection initial charge plus $5,000 monthly per connection. The 10 Gb LCN circuit costs $10,000 per connection initial charge plus $12,000 monthly per connection, while the LCN 10 Gb LX, a second LCN option that has a lower latency than the 10 Gb LCN circuit, costs $15,000 per connection initial charge plus $20,000 monthly per connection.[9]

The IP network provides Users that do not need the lower latency of the LCN with a less costly data center network option. Having another data center network also provides Users with the option to create redundancy in their infrastructure. The offering of either a 1 Gb or 10 Gb IP network connection provides Users more choices regarding the bandwidth of their network connections.

Cross Connects

Cross connects are fiber connections used to connect cabinets within the data center. Cross connects may be used between a User's own cabinets or between its cabinet(s) and those of another User.[10] A cross connect may be used to connect cabinets of separate Users when, for example, a User receives technical support, order routing and/or market data delivery services from another User in the data center. A User is able to purchase cross connects individually or in bundles (*i.e.,* multiple cross connects within a single sheath) of six, 12, 18 or 24 cross connects.

The Exchange proposes to amend the Fee Schedules for individual and bundled cross connects to include cross-connects between a User's cabinet and a non-User's equipment within the data center. Non-Users with equipment in the data center include the Exchange and third-party carriers. For example, a User may utilize a cross connect with a non-User to connect to a carrier's equipment in order to access the carrier's network outside the data center. Such cross connects do not provide direct access to the Exchange's trading and execution systems and do not change the fact that only Users that are authorized to obtain access to the Exchange trading and execution systems can do so.

The Exchange proposes to amend the existing cross connect fee in the Fee Schedules accordingly. Specifically, the existing Fee Schedule text that describes cross connects as being ''between cabinets within the data center'' would be removed. The existing pricing for individual and bundled cross connects would not change.

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (*e.g.,* a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis; [11] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its affiliates.[12]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Sections 6(b)(5) of the Act,[14] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the IP network connections are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the IP network connections provide an alternative to Users that do not require the lower latency levels of the LCN for all of their business operations. Users that do require lower latency levels for all of their business operations may utilize only LCN connections. The Exchange believes that this removes impediments to, and perfects the mechanisms of, a free and open market and a national market system and, in general, protects investors and the public interest because it provides Users with additional choices with respect to both the optimal latency and, by including 1 Gb and 10 Gb IP network connection options, the optimal bandwidth option for their network connections. Having data center networks to choose from also provides Users with the option to create redundancy in their infrastructure. In addition, the Exchange believes that the proposed revision of the description of the bundled connectivity options to remove the reference to ''SFTI'' and update it to ''IP network'' removes impediments to, and perfects the mechanisms of, a free and open market and a national market system and, in general, protects investors and the public interest because conforming the references to the IP network will add clarity to the Fee Schedules. The Exchange believes that providing Users with an IP network circuit solely for testing and certification purposes for three months

[9] *See* Securities Exchange Act Release No. 70887 (November 15, 2013), 78 FR 69897 (November 21, 2013) (SR–NYSEArca–2013–123).

[10] The Commission approved the fee for cross connects between a single User's cabinets within the data center in the Original Co-Location Filing. *See* Original Co-Location Filing, at 70050. The use of cross connects was subsequently revised to allow each User to purchase cross connects between its cabinet(s) and the cabinets of separate Users. *See* August 2012 Rule Change, at 50744.

[11] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[12] *See* SR–NYSEArca–2013–80, *supra* note 5 at 50459. The Exchange's affiliates have also submitted the same proposed rule change to propose the changes described herein. *See* SR–NYSEMKT–2015–08 and SR–NYSE–2015–05.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

at no charge protects investors and the public interest because it encourages Users to conduct testing and certification.

The Exchange believes that the cross connects between Users and non-Users are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the proposed change makes a third use for cross connections available to Users, but Users that do not require such connections may continue to utilize existing cross connects as they need. The Exchange believes that this removes impediments to, and perfects the mechanisms of, a free and open market and a national market system and, in general, protects investors and the public interest because cross connects between Users' cabinets and non-Users' equipment assist Users in meeting the growing needs of their business operations by facilitating connections with non-Users.

The Exchange also believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[15] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

Overall, the Exchange believes that the proposed change is reasonable because the Exchange proposes to offer the co-location services described herein (*i.e.,* the IP network connections and additional cross connects) as a convenience to Users, but in doing so will incur certain costs, including costs related to the data center facility, hardware and equipment and costs related to personnel required for initial installation and monitoring, support and maintenance of such services. In addition, the Exchange believes that the proposed revision of the description of the bundled connectivity options to remove the reference to ''SFTI'' and update it to ''IP network'' is reasonable because conforming the references to the IP network will add clarity to the Fee Schedules.

The Exchange believes that the proposed pricing for IP network connections is reasonable because IP network connections are a more economical option for certain Users that do not require the lower latency levels of the LCN for all of their business operations. The proposed pricing for IP network connections is also reasonable because it allows Users to select network options that are better suited for their needs. Some Users do not need lower latency levels for all of their business operations, and IP network connections provide them the option to utilize network connections with higher latency levels but lower fees than the LCN. The availability of 1 Gb and 10 Gb options allow Users to select the bandwidth option that suits their needs. In addition, the Exchange believes that the proposed revision of the description of the bundled connectivity options to remove the reference to ''SFTI'' and update it to ''IP network'' is reasonable because it will conform the references to the IP network in the Fee Schedules. The Exchange believes that providing Users with an IP network circuit solely for testing and certification purposes for three months at no charge is reasonable because providing the IP network circuit at no charge encourages Users to conduct testing and certification.

The Exchange believes that it is reasonable to charge the same amount for cross connects regardless of whether the cross connects are between the cabinets of a single User, between the cabinets of separate Users or between a User and non-User, because the cross connect hardware and costs the Exchange incurs are substantially the same in each case.

The Exchange believes that the proposed change is equitable and not unfairly discriminatory because it will result in fees being charged only to Users that voluntarily select to receive the corresponding services and because those services will be available to all Users. Furthermore, the Exchange believes that the services and fees proposed herein are not unfairly discriminatory and are equitably allocated because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (*i.e.,* the same products and services are available to all Users).

For the reasons above, the proposed changes do not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[16] the Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because, in addition to the proposed services being completely voluntary, they are available to all Users on an equal basis (*i.e.* the same products and services are available to all Users).

The Exchange believes that allowing Users to purchase access to the IP network will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because such access will satisfy User demand for more cost-effective, higher latency connections. The proposed changes also enhance competition by helping Users tailor their data center network connections to the growing needs of their business operations and by adding clarity to the Fee Schedules by conforming the references to the IP network. The Exchange also believes that the cross connects between Users' cabinets and non-Users' equipment will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because the cross connects will satisfy User demand for more flexibility in the Users' use of cross connects. The proposed change also enhances competition by helping Users tailor their co-located systems to the varying needs of their business operations.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its services and related fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78f(b)(8).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[21] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEARCA–2015–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2015–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2015–03, and should be submitted on or before March 5, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Brent J. Fields,

Secretary.

[FR Doc. 2015–02892 Filed 2–11–15; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] 15 U.S.C. 78s(b)(2)(B).

[22] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 9035]

30-Day Notice of Proposed Information Collection: Supplemental Nonimmigrant Visa Application

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to March 16, 2015.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Sydney Taylor, who may be reached at *PRA_BurdenComments@state.gov*.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Supplemental Nonimmigrant Visa Application.
- *OMB Control Number:* 1405–0134.
- *Type of Request:* Extension of Currently Approved Form.
- *Originating Office:* CA/VO/L/R.
- *Form Number:* DS–157.
- *Respondents:* Iraq and Afghan Foreign Nationals applying for Special Immigrant Visa Program.
- *Estimated Number of Respondents:* 8,000.
- *Estimated Number of Responses:* 8,000.
- *Average Time per Response:* 1 hour.
- *Total Estimated Burden Time:* 8,000.
- *Frequency:* Once.
- *Obligation To Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: Form DS–157 (Supplemental Nonimmigrant Visa Application, OMB #1405–0134) was previously used in conjunction with the DS–156 (Nonimmigrant Visa Application, OMB #1405–0018) to fulfill the legal requirements for Special Immigrant Visas (SIVs). However, the Department is requesting a reinstatement of the DS–157 in order for this form to be used by Iraqi and Afghan special immigrant visa applicants to obtain Chief of Mission Approval for the SIV Program. This form will only be used until the expiration of the SIV program.

Methodology: Applicants are required to complete the DS–157, along with other required documentation, and to submit their package to the appropriate SIV email address.

Additional Information: This form is only to be used in the SIV application process by Afghan and Iraqi foreign nationals who have been employed by or on behalf of the U.S. Government in Iraq or Afghanistan and meet the eligibility requirements for participation in the SIV program.

Dated: January 26, 2015.

Edward Ramotowski,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2015–02987 Filed 2–11–15; 8:45 am]

BILLING CODE 4710–06–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: October 1, 2014–December 31, 2014.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, Regulatory Counsel, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and § 806.22(f) for the time period specified above:

Approvals By Rule Issued Under 18 CFR 806.22(e)

1. The Lion Brewery, Inc., The Lion Brewery-Wilkes-Barre PA, ABR–201412007, Wilkes-Barre, Luzerne County, PA.; Approval Date: December 15, 2014.

Approvals By Rule Issued Under 18 CFR 806.22(f)

1. Seneca Resources Corporation, Pad ID: DCNR 595 Pad D, ABR–20090827.R1, Bloss Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: October 7, 2014.
2. Chesapeake Appalachia, LLC, Pad ID: James Smith, ABR–20091020.R1, Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: October 7, 2014.
3. Chesapeake Appalachia, LLC, Pad ID: Grippo, ABR–20091212.R1, Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: October 7, 2014.
4. Chesapeake Appalachia, LLC, Pad ID: Duffield, ABR–20091213.R1, Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: October 7, 2014.
5. Chesapeake Appalachia, LLC, Pad ID: Shirley, ABR–20100133.R1, Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: October 7, 2014.
6. Chesapeake Appalachia, LLC, Pad ID: Meas, ABR–20100134.R1, Albany Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: October 7, 2014.
7. Chesapeake Appalachia, LLC, Pad ID: Mowry2, ABR–20100141.R1, Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: October 7, 2014.
8. Chesapeake Appalachia, LLC, Pad ID: Harper, ABR–20100142.R1, Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: October 7, 2014.
9. Chesapeake Appalachia, LLC, Pad ID: Popivchak, ABR–20100147.R1, Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: October 7, 2014.
10. Chesapeake Appalachia, LLC, Pad ID: Roundwood, ABR–201410001, Braintrim Township, Wyoming County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: October 10, 2014.
11. Southwestern Energy Production Company, Pad ID: RU–42–KROPFF–PAD, ABR–201410002, Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: October 10, 2014.
12. Southwestern Energy Production Company, Pad ID: RU–71–BLUE BECK–PAD, ABR–201410003, Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: October 10, 2014.
13. Chesapeake Appalachia, LLC, Pad ID: Saxe, ABR–201410004, Colley Township, Sullivan County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: October 10, 2014.
14. Chief Oil & Gas, LLC, Pad ID: SGL–12 B Drilling Pad, ABR–201410005, Overton Township, Bradford County, Pa.; Consumptive Use of Up to 2.500 mgd; Approval Date: October 10, 2014.
15. Southwestern Energy Production Company, Pad ID: RU–47–KARMAZIN–PAD, ABR–201410006, Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: October 17, 2014.
16. Southwestern Energy Production Company, Pad ID: NR–27–COLEMAN EAST–PAD, ABR–201410007, Oakland Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: October 17, 2014.
17. Inflection Energy LLC, Pad ID: Reitz Well Pad, ABR–201410008, Eldred Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: October 17, 2014.
18. Inflection Energy LLC, Pad ID: Winter Well Pad, ABR–201410009, Eldred Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: October 17, 2014.
19. Anadarko E&P Onshore LLC, Pad ID: Salt Run HC Pad B, ABR–201410010, Cascade Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: October 23, 2014.
20. Anadarko E&P Onshore LLC, Pad ID: COP Tract 284 Pad A, ABR–201410011, Grugan and Gallagher Townships, Clinton County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: October 23, 2014.
21. Southwestern Energy Production Company, Pad ID: RU–06 FLOHS–PAD, ABR–201410012, Great Bend Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: October 23, 2014.
22. Stone Energy Corporation, Pad ID: Stang Well No. 1, ABR–20090941.R1, Rush Township, Susquehanna County, Pa.; Consumptive Use of Up to 1.000 mgd; Approval Date: October 29, 2014.
23. Stone Energy Corporation, Pad ID: Loomis Well No. 1, ABR–20090942.R1, Rush Township, Susquehanna County, Pa.; Consumptive Use of Up to 1.000 mgd; Approval Date: October 29, 2014.
24. Chesapeake Appalachia, LLC, Pad ID: Harry, ABR–20091017.R1, West Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: October 29, 2014.

25. Chesapeake Appalachia, LLC, Pad ID: Stoorza, ABR–20091208.R1, Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: October 29, 2014.
26. Chesapeake Appalachia, LLC, Pad ID: Readinger, ABR–20091210.R1, West Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: October 29, 2014.
27. Chesapeake Appalachia, LLC, Pad ID: Miller, ABR–20091211.R1, Towanda Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: October 29, 2014.
28. EOG Resources, Inc., Pad ID: GUINAN 1V, ABR–20091116.R1, Springfield Township, Bradford County, Pa.; Consumptive Use of Up to 0.999 mgd; Approval Date: October 29, 2014.
29. Chesapeake Appalachia, LLC, Pad ID: Solowiej, ABR–20100148.R1, Wyalusing Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: October 31, 2014.
30. Talisman Energy USA Inc., Pad ID: Ferguson 01 023, ABR–20100453.R1, Granville Township, Bradford County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: October 31, 2014.
31. Cabot Oil & Gas Corporation, Pad ID: KelleyP P1, ABR–20100310.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: November 7, 2014.
32. Cabot Oil & Gas Corporation, Pad ID: HinkleyR P1, ABR–20100322.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: November 7, 2014.
33. Cabot Oil & Gas Corporation, Pad ID: BlaisureJo P1, ABR–20100325.R1, Jessup Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: November 7, 2014.
34. Cabot Oil & Gas Corporation, Pad ID: RussoB P2, ABR–20100326.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: November 7, 2014.
35. Cabot Oil & Gas Corporation, Pad ID: WarnerA P1, ABR–20100331.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: November 7, 2014.
36. Cabot Oil & Gas Corporation, Pad ID: GrosvenorD P1, ABR–20100333.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: November 7, 2014.
37. Cabot Oil & Gas Corporation, Pad ID: Depaola P1, ABR–20100343.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: November 7, 2014.
38. Chesapeake Appalachia, LLC, Pad ID: Lionetti, ABR–20100130.R1, Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: November 7, 2014.
39. Chesapeake Appalachia, LLC, Pad ID: Storms, ABR–20100131.R1, Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: November 7, 2014.
40. Chesapeake Appalachia, LLC, Pad ID: Welles 3, ABR–20100132.R1, Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: November 7, 2014.
41. Chesapeake Appalachia, LLC, Pad ID: Welles 4, ABR–20100144.R1, Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: November 7, 2014.
42. Chesapeake Appalachia, LLC, Pad ID: Horst, ABR–20100150.R1, Smithfield Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: November 7, 2014.
43. Chesapeake Appalachia, LLC, Pad ID: Stevens, ABR–20100151.R1, Standing Stone Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: November 7, 2014.
44. Range Resources—Appalachia, LLC, Pad ID: Arrowhead Hunting Club Unit, ABR–20100534.R1, Gallagher Township, Clinton County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: November 7, 2014.
45. Seneca Resources Corporation, Pad ID: DCNR Tract 100 5H, ABR–20100439.R1, Lewis Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
46. Talisman Energy USA Inc., Pad ID: Ziegler 03 001, ABR–20100424.R1, Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: November 7, 2014.
47. Talisman Energy USA Inc., Pad ID: Crank 03 067, ABR–20100430.R1, Columbia Township, Bradford County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: November 7, 2014.
48. Talisman Energy USA Inc., Pad ID: Storch 03 035, ABR–20100445.R1, Wells Township, Bradford County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: November 7, 2014.
49. Chesapeake Appalachia, LLC, Pad ID: Claude, ABR–20100319.R1, Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: November 7, 2014.
50. Chesapeake Appalachia, LLC, Pad ID: Marbaker, ABR–20100321.R1, Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: November 7, 2014.
51. Chesapeake Appalachia, LLC, Pad ID: Masso, ABR–20100216.R1, Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: November 7, 2014.
52. Chief Oil & Gas, LLC, Pad ID: Ransom Drilling Pad #1, ABR–20100338.R1, Lenox Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.000 mgd; Approval Date: November 7, 2014.
53. Chief Oil & Gas, LLC, Pad ID: Oliver Drilling Pad #1, ABR–20100425.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.000 mgd; Approval Date: November 7, 2014.
54. Chief Oil & Gas, LLC, Pad ID: Kerr Drilling Pad #1, ABR–20100506.R1, Lathrop Township, Susquehanna County, Pa.; Consumptive Use of Up to 2.000 mgd; Approval Date: November 7, 2014.
55. Seneca Resources Corporation, Pad ID: DCNR Tract 007 1H, ABR–201008045.R1, Shippen Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
56. SWEPI LP, Pad ID: Pazzaglia 507, ABR–20091003.R1, Rutland Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
57. SWEPI LP, Pad ID: Soderberg 501, ABR–20091004.R1, Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
58. SWEPI LP, Pad ID: Fitch 115–1H, ABR–20091005.R1, Union Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
59. SWEPI LP, Pad ID: Palmer 112, ABR–20091006.R1, Canton Township, Bradford County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
60. SWEPI LP, Pad ID: Allen 264, ABR–20091007.R1, Jackson Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
61. SWEPI LP, Pad ID: Howe 257, ABR–20091008.R1, Jackson Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
62. SWEPI LP, Pad ID: Ostrander 412, ABR–20091009.R1, Jackson Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
63. SWEPI LP, Pad ID: Bryan 406, ABR–20091011.R1, Jackson Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
64. SWEPI LP, Pad ID: Cooper 400, ABR–20091013.R1, Tioga Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
65. SWEPI LP, Pad ID: Burleigh 508, ABR–20091015.R1, Rutland Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
66. SWEPI LP, Pad ID: Busia 457, ABR–20091016.R1, Jackson Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
67. SWEPI LP, Pad ID: Phillips 504, ABR–20091018.R1, Rutland Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
68. SWEPI LP, Pad ID: Hungerford 458, ABR–20091019.R1, Jackson Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
69. SWEPI LP, Pad ID: Schildt 259, ABR–

20091027.R1, Jackson Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
70. SWEPI LP, Pad ID: Stehmer 420, ABR–20091101.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
71. SWEPI LP, Pad ID: Johnson 435, ABR–20091102.R1, Shippen Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
72. SWEPI LP, Pad ID: Brown 425, ABR–20091106.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
73. SWEPI LP, Pad ID: Barrett 410, ABR–20091107.R1, Jackson Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
74. SWEPI LP, Pad ID: Starks 461, ABR–20091108.R1, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
75. SWEPI LP, Pad ID: Yungwirth 307, ABR–20091110.R1, Charleston Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
76. SWEPI LP, Pad ID: West 299, ABR–20091111.R1, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
77. SWEPI LP, Pad ID: Button 402, ABR–20091113.R1, Jackson Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
78. SWEPI LP, Pad ID: Chapman 237, ABR–20091206.R1, Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
79. SWEPI LP, Pad ID: Houck 433, ABR–20091207.R1, Shippen Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
80. SWEPI LP, Pad ID: Jenkins 523, ABR–20091215.R1, Rutland Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
81. SWEPI LP, Pad ID: Pannebaker 515, ABR–20091216.R1, Rutland Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
82. SWEPI LP, Pad ID: Starks 460, ABR–20091217.R1, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
83. SWEPI LP, Pad ID: Oldroyd 509, ABR–20091218.R1, Rutland Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: November 7, 2014.
84. Chief Oil & Gas LLC, Pad ID: S.A. Wilson Drilling Pad, ABR–201411001, Overton Township, Bradford County, Pa.; Consumptive Use of Up to 2.500 mgd; Approval Date: November 12, 2014.
85. Southwestern Energy Production Company, Pad ID: NR–04–DIAZ PAD, ABR–201411002, New Milford Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: November 12, 2014.
86. Chesapeake Appalachia, LLC, Pad ID: Welles 5, ABR–20100217.R1, Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: November 12, 2014.
87. Chesapeake Appalachia, LLC, Pad ID: Acla, ABR–20100324.R1, Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: November 12, 2014.
88. Chesapeake Appalachia, LLC, Pad ID: Plymouth, ABR–20100341.R1, Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: November 12, 2014.
89. Chief Oil & Gas LLC, Pad ID: Severcool Drilling Pad #1, ABR–20100547.R1, Forkston Township, Wyoming County, Pa.; Consumptive Use of Up to 2.000 mgd; Approval Date: November 12, 2014.
90. Chesapeake Appalachia, LLC, Pad ID: Updike, ABR–20100305.R1, West Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: November 18, 2014.
91. Chesapeake Appalachia, LLC, Pad ID: Kalinowski, ABR–20100332.R1, West Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: November 18, 2014.
92. Chesapeake Appalachia, LLC, Pad ID: Rose, ABR–20100327.R1, Towanda Township, Bradford County, Pa.; Consumptive Use of Up to 7.500mgd; Approval Date: November 19, 2014.
93. Chesapeake Appalachia, LLC, Pad ID: Leaman, ABR–20100342.R1, West Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: November 19, 2014.
94. American Energy—Marcellus, LLC, Pad ID: Sooner Magic 1, ABR–201412001, Union Township, Huntingdon County, Pa.; Consumptive Use of Up to 0.100 mgd; Approval Date: December 5, 2014.
95. Cabot Oil & Gas Corporation, Pad ID: RoseC P1, ABR–20100407.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: December 5, 2014.
96. Cabot Oil & Gas Corporation, Pad ID: BlaisureJe P1, ABR–20100431.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: December 5, 2014.
97. Cabot Oil & Gas Corporation, Pad ID: Rayias P1, ABR–20100432.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: December 5, 2014.
98. Chesapeake Appalachia, LLC, Pad ID: Dan Ellis, ABR–20100210.R1, Monroe Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: December 5, 2014.
99. Chesapeake Appalachia, LLC, Pad ID: Engelke, ABR–20100323.R1, Troy Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: December 5, 2014.
100. Chesapeake Appalachia, LLC, Pad ID: Elevation, ABR–20100339.R1, North Towanda Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: December 5, 2014.
101. Chesapeake Appalachia, LLC, Pad ID: Schoonover, ABR–20100345.R1, Wysox Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: December 5, 2014.
102. Chesapeake Appalachia, LLC, Pad ID: Cappucci, ABR–20100312.R1, Mehoopany Township, Wyoming County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: December 8, 2014.
103. Chesapeake Appalachia, LLC, Pad ID: Rosalie, ABR–20100348.R1, Windham Township, Wyoming County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: December 8, 2014.
104. SWEPI LP, Pad ID: Butler 127, ABR–20100114.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: December 8, 2014.
105. Cabot Oil & Gas Corporation, Pad ID: ReynenJ P1, ABR–201412002, Harford Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.250 mgd; Approval Date: December 8, 2014.
106. Cabot Oil & Gas Corporation, Pad ID: GrooverS P1, ABR–201412003, Bridgewater Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.250 mgd; Approval Date: December 8, 2014.
107. EXCO Resources (PA), LLC, Pad ID: Edkin Hill Unit, ABR–201412004, Shrewsbury Township, Sullivan County, Pa.; Consumptive Use of Up to 8.000 mgd; Approval Date: December 8, 2014.
108. SWEPI LP, Pad ID: Charles Stock 144, ABR–20100120.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: December 9, 2014.
109. SWEPI LP, Pad ID: Coolidge 464, ABR–20100139.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: December 9, 2014.
110. SWEPI LP, Pad ID: Hackman 143, ABR–20100118.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: December 11, 2014.
111. SWEPI LP, Pad ID: Baker 128, ABR–20100119.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: December 11, 2014.
112. SWEPI LP, Pad ID: Castle 113D, ABR–20100123.R1, Canton Township, Bradford County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: December 11, 2014.
113. Cabot Oil & Gas Corporation, Pad ID: WrightW P1, ABR–201412005, Bridgewater Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.250 mgd; Approval Date: December 11,

2014.

114. Southwestern Energy Production Company, Pad ID: NR–16 HALEY PAD, ABR–201412006, Great Bend Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: December 11, 2014.
115. SWEPI LP, Pad ID: Willard 419–1H, ABR–20100105.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: December 16, 2014.
116. SWEPI LP, Pad ID: Kennedy 137, ABR–20100121.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: December 16, 2014.
117. SWEPI LP, Pad ID: Stevens 142, ABR–20100122.R1, Delmar Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: December 16, 2014.
118. SWEPI LP, Pad ID: Miller 116D, ABR–20100124.R1, Union Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: December 16, 2014.
119. SWEPI LP, Pad ID: Sterling 525, ABR–20100140.R1, Rutland Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: December 16, 2014.
120. SWEPI LP, Pad ID: McClure 527, ABR–20100143.R1, Rutland Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: December 16, 2014.
121. Cabot Oil & Gas Corporation, Pad ID: StellitanoA P1, ABR–201412008, Gibson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.250 mgd; Approval Date: December 16, 2014.
122. SWEPI LP, Pad ID: York 480–5H, ABR–20100106.R1, Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: December 19, 2014.
123. SWEPI LP, Pad ID: Wood 513, ABR–20100107.R1, Rutland Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: December 19, 2014.
124. Southwestern Energy Production Company, Pad ID: NR–19 WALKER–DIEHL PAD, ABR–201412009, Oakland Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: December 22, 2014.
125. Inflection Energy LLC, Pad ID: Hannan Well Site, ABR–201412010, Hepburn Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: December 22, 2014.
126. Cabot Oil & Gas Corporation, Pad ID: CarsonJ P1, ABR–20100520.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: December 23, 2014.
127. Warren Marcellus, LLC, Pad ID: Procter & Gamble Mehoopany Plant 4V, ABR–20100125.R1, Washington Township, Wyoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: December 23, 2014.
128. Warren Marcellus, LLC, Pad ID: Procter & Gamble Mehoopany Plant 3V, ABR–20100126.R1, Washington Township, Wyoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: December 23, 2014.
129. Warren Marcellus, LLC, Pad ID: Procter & Gamble Mehoopany Plant 5V, ABR–20100127.R1, Washington Township, Wyoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: December 23, 2014.
130. Anadarko E&P Onshore LLC, Pad ID: Texas Blockhouse F&G B, ABR–20100207.R1, Pine Township, Lycoming County, Pa.; Consumptive Use of Up to 3.000 mgd; Approval Date: December 31, 2014.
131. Cabot Oil & Gas Corporation, Pad ID: WarrinerR P2, ABR–20100518.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: December 31, 2014.
132. Cabot Oil & Gas Corporation, Pad ID: HawleyW P1, ABR–20100521.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: December 31, 2014.
133. Cabot Oil & Gas Corporation, Pad ID: RozellC P1, ABR–20100542.R1, Jessup Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: December 31, 2014.
134. Cabot Oil & Gas Corporation, Pad ID: PettyJ P1, ABR–20100550.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: December 31, 2014.
135. Chesapeake Appalachia, LLC, Pad ID: Otis, ABR–20100318.R1, Herrick Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: December 31, 2014.
136. Chesapeake Appalachia, LLC, Pad ID: Sivers, ABR–20100320.R1, Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: December 31, 2014.
137. Chesapeake Appalachia, LLC, Pad ID: Hoffman, ABR–20100328.R1, Towanda Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: December 31, 2014.
138. Chesapeake Appalachia, LLC, Pad ID: Walt, ABR–20100329.R1, Albany Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: December 31, 2014.
139. Chesapeake Appalachia, LLC, Pad ID: Lundy, ABR–20100340.R1, Standing Stone Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: December 31, 2014.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: February 4, 2015.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2015–02924 Filed 2–11–15; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Rescinded for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the approved by rule projects rescinded by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: October 1–31, 2014.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, Regulatory Counsel, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, being rescinded for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and § 806.22(f) for the time period specified above:

Rescinded ABR Issued October 1–31, 2014

1. XTO Energy Incorporated, Pad ID: Raymond Unit A, ABR–201107016, Pine Township, Columbia County, Pa.; Rescind Date: October 23, 2014.
2. XTO Energy Incorporated, Pad ID: Spiece Unit A, ABR–201107001, Jackson Township, Columbia County, Pa.; Rescind Date: October 23, 2014.
3. XTO Energy Incorporated, Pad ID: Glidewell Unit A, ABR–201105021, Pine Township, Columbia County, Pa.; Rescind Date: October 23, 2014.
4. XTO Energy Incorporated, Pad ID: Raymond Unit B, ABR–201103034, Pine Township, Columbia County, Pa.; Rescind Date: October 23, 2014.
5. XTO Energy Incorporated, Pad ID: Litwheler Unit A, ABR–201103032, Pine Township, Columbia County, Pa.; Rescind Date: October 23, 2014.
6. XTO Energy Incorporated, Pad ID: Levan 8532H, ABR–201011018, Pine Township, Columbia County, Pa.; Rescind Date: October 23, 2014.
7. XTO Energy Incorporated, Pad ID: Levan 8526H, ABR–201010001, Pine Township, Columbia County, Pa.; Rescind Date: October 23, 2014.
8. XTO Energy Incorporated, Pad ID: FOX 8501H, ABR–201009062, Shrewsbury Township, Lycoming County, Pa.; Rescind Date: October 23, 2014.

9. XTO Energy Incorporated, Pad ID: Kepner 8503H, ABR–20100209, Shrewsbury Township, Lycoming County, Pa.; Rescind Date: October 23, 2014.
10. XTO Energy Incorporated, Pad ID: TLT, ABR–20100203, Jordon Township, Lycoming County, Pa.; Rescind Date: October 23, 2014.
11. XTO Energy Incorporated, Pad ID: Renn9506H, ABR–201011020, Jordon Township, Lycoming County, Pa.; Rescind Date: October 23, 2014.
12. Range Resources Appalachia, LLC, Pad ID: Ritzenthaler Living Trust Unit #1H–#4H, ABR–201104012, Gamble Township, Lycoming County, Pa.; Rescind Date: October 23, 2014.
13. Samson Exploration, LLC, Pad ID: Pardee & Curtin Lumber Co. C–04, ABR–20100115, Lumber Township, Cameron County, Pa.; Rescind Date: October 23, 2014.

Authority: Public Law 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: February 4, 2015.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2015–02939 Filed 2–11–15; 8:45 am]

BILLING CODE 7040–01–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting Notice

Meeting No. 15–01

The TVA Board of Directors will hold a public meeting on February 12, 2015, in the Missionary Ridge Auditorium of the Chattanooga Office Complex, 1101 Market Street, Chattanooga, Tennessee. The public may comment on any agenda item or subject at a *public listening session* which begins at 8:30 a.m. (ET). Following the end of the public listening session, the meeting will be called to order to consider the agenda items listed below. On-site registration will be available until 15 minutes before the public listening session begins at 8:30 a.m. (ET). Preregistered speakers will address the Board first. TVA management will answer questions from the news media following the Board meeting.

STATUS: Open.

Agenda

Chairman's Welcome

Old Business

Approval of minutes of the November 6, 2014, and December 30, 2014, Board Meetings.

New Business

1. Designation of Corporate Secretary
2. Report from President and CEO
3. Report of the External Relations Committee
   A. Regional Energy Resource Council Charter
4. Report of the Audit, Risk, and Regulation Committee
5. Report of the People and Performance Committee
6. Report of the Finance, Rates, and Portfolio Committee
   A. Financial Performance Update
   B. Off-Peak Overlay Rate Extension
   C. Extension of Fleet Services Contract
   D. Acquisition of Generation Facility
   E. Utility-Scale Solar PPA
7. Report of the Nuclear Oversight Committee

For more information: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: February 5, 2015.

Sherry A. Quirk,

General Counsel.

[FR Doc. 2015–02915 Filed 2–10–15; 11:15 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirteenth Meeting: RTCA Special Committee 227, Standards of Navigation Performance

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Meeting Notice of RTCA Special Committee 227, Standards of Navigation Performance, Correction to FR Doc. 2015–01829.

SUMMARY: The FAA is issuing this notice to advise the public of the thirteenth meeting of the RTCA Special Committee 227, Standards of Navigation Performance

DATES: The meeting will be held March 16–20 from 9:00 a.m.–4:30 p.m.

ADDRESSES: RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 330–0662 or (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.* In addition, Sophie Bousquet may be contacted directly at email: *sbousquet@rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 227. The agenda will include the following:

March 16–20 2015

- Welcome/Introductions/ Administrative Remarks.
- Agenda Overview.
- Overview of Planned Work Program for the Week.
  - Working Group 2 MOPS Change Proposals.
  - MOPS Draft Review.
  - SC–186 proposed addition to MASPS Appendix.
- Plenary Review/Discussion.
  - Planned Work Schedule (Note, schedule subject to change).
  - New tasking: Update to DO–257A, Electronic Map MOPS.
  - MOPS Change Proposals for Incorporation into draft MOPS.
  - 9:00 a.m. to 4:30 p.m. each day.
- Technical Requirements Breakout Sessions (as needed).
- Other Business.
- Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 5th, 2015.

Mohannad Dawoud,

Management Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2015–02876 Filed 2–11–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirty-First Meeting: RTCA Special Committee 224, Airport Security Access Control Systems

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Meeting Notice of RTCA Special Committee 224, Airport Security Access Control Systems.

SUMMARY: The FAA is issuing this notice to advise the public of the thirty-first meeting of the RTCA Special Committee 224, Airport Security Access Control Systems.

DATES: The meeting will be held on March 5th 2015 from 9:00 a.m.–4:00 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 224. The agenda will include the following:

March 5th 2015

- Welcome/Introductions/Administrative Remarks.
- Review/Approve Previous Meeting Summary.
- Report from the TSA.
- Report on Safe Skies on Document Distribution.
- Program Management Committee/TOR report.
- Individual Document Section Reports.
- Action Items for Next Meeting.
- Time and Place of Next Meeting.
- Any Other Business.
- Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 5, 2015.

Mohannad Dawoud,

Management Analyst, NextGen, Program Oversight and Administration, Federal Aviation Administration.

[FR Doc. 2015–02877 Filed 2–11–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1120X; Docket No. AB 1120 (Sub-No. 1X)]

The State of New Hampshire—Abandonment Exemption—in Grafton County, NH; Claremont Concord Railroad Corporation—Discontinuance of Service Exemption—in Grafton County, NH

The State of New Hampshire (the State) and Claremont Concord Railroad Corporation (CCRC) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for the State to abandon, and for CCRC to discontinue service over, approximately 0.97 miles of rail line between milepost B140 (Station 3515+69) and milepost B141 (Station 3568+49) in Lebanon, Grafton County, N.H. (the Line). The Line traverses United States Postal Service Zip Code 03766.

Applicants have certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years and overhead traffic, if there were any, could be rerouted over other Lines; (3) no formal complaint has been filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line and no such complaint is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on March 14, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by February 23, 2015. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 4, 2015, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicants' representative: Ashley J. Romeo-Boles, Schuster, Buttrey & Wing, P.A., 79 Hanover St., P.O. Box 388, Lebanon, NH 03766.

If the verified notice contains false or misleading information, the exemptions are void *ab initio.*

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by February 17, 2015. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), the State shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by the State's filing of a notice of consummation by February 12, 2016, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: February 9, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2015–02989 Filed 2–11–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing for the 2015 March of Dimes Silver Dollar

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing pricing for the 2015 March of Dimes Silver Dollar as follows:

Coin	Introductory price	Regular price
Silver Proof	$46.95	$51.95
Silver Uncirculated	43.95	48.95

FOR FURTHER INFORMATION CONTACT: Mary Lhotsky, Acting Associate Director for Sales and Marketing; United States Mint; 801 9th Street NW., Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112 & 9701.

Dated: February 6, 2015.

Richard A. Peterson,

Deputy Director for Manufacturing and Quality, United States Mint.

[FR Doc. 2015–02882 Filed 2–11–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW (10–10130)]

Proposed Information Collection (From War to Home: Improving Patient-Centered Care and Promoting Empathy for ''Operation Enduring Freedom'' and ''Operation Iraqi Freedom'' (OEF/OIF) Veterans in the Veterans Health Administration Patient Aligned Care Team Demo Lab VISN 4)

ACTIVITY: Comment Request.

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each new collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to obtain an accurate and comprehensive assessment of satisfaction of patients who receive mental health care services and on outcomes for Veterans who seek mental health treatment from VHA. Data will allow the program office to ensure that the target audience is being reached, effective treatments are being offered, and tangible, quantitative results are being measured and tracked for continual program improvement.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 13, 2015.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov;* or Audrey Revere, Office of Regulatory and Administrative Affairs, Veterans Health Administration (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email: *Audrey.revere@va.gov.* Please refer to ''OMB Control No. 2900–NEW (From War to Home: Improving Patient-Centered Care and Promoting Empathy for ''Operation Enduring Freedom'' and ''Operation Iraqi Freedom'' (OEF/OIF) Veterans in the Veterans Health Administration Patient Aligned Care Team Demo Lab VISN 4)'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Audrey Revere at (202) 461–5694.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles: From War to Home: Improving Patient-Centered Care and Promoting Empathy for OEF/OIF Veterans in the VHA—PACT Demo Lab VISN 4, VA Form 10–10130

OMB Control Number: 2900—NEW.

Type of Review: New data collection.

Abstract: This project is being conducted under the auspices of the VISN 4 Demonstration Lab, which was funded by Patient Care Services to assess the Patient Aligned Care Team (PACT) model of care for Veterans. There is considerable interest in and urgency to implement the PACT model—reflecting both a desire to improve health care for Veterans and to sustain the VA's leadership in health care quality. CEPACT aims to contribute to these goals by evaluating the effects of the VA PACT initiative and by testing new, innovative strategies for patient care that can be spread if proven effective.

Affected Public: Individuals or households.

Estimated Annual Burden: 84 burden hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 1000.

Dated: February 6, 2015.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2015–02884 Filed 2–11–15; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0784]

Proposed Information Collection (NCA PreNeed Burial Planning) Activity: Comment Request

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The National Cemetery Administration (NCA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each revised collection allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine a claimant's eligibility for burial at a National Cemetery.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 13, 2015.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Mechelle Powell, National Cemetery Administration (43D3), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; or email: *mechelle.powell@va.gov.* Please refer to ''OMB Control No. 2900–0784'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Mechelle Powell at (202) 684–5365 or FAX (202) 501–2240.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, NCA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of NCA's functions, including whether the information will have practical utility; (2) the accuracy of NCA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: NCA PreNeed Burial Eligibility Evaluation, VA Form 40–100007.

OMB Control Number: 2900–0784.

Type of Review: Revision of an approved collection.

Abstract: VA Form Letter 40–100007 will be used to collect information from Veterans and service members with terminal illnesses and adult dependent children in hospitals and other institutions. The data will be used to determine their eligibility for burial in a National Cemetery prior to the actual time of need.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,000.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 8,000.

Dated: February 6, 2015.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2015–02883 Filed 2–11–15; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 80 Thursday,
No. 29 February 12, 2015

Part II

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Parts 417, 422, and 423
Medicare Program; Contract Year 2016 Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs; Final Rule

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Parts 417, 422, and 423

[CMS–4159–F2]

RIN 0938–AS20

Medicare Program; Contract Year 2016 Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule amends the Medicare Advantage (MA) program (Part C) regulations and Medicare Prescription Drug Benefit Program (Part D) regulations to implement statutory requirements; improve program efficiencies; strengthen beneficiary protections; clarify program requirements; improve payment accuracy; and make various technical changes. Additionally, this rule finalizes two technical changes that reinstate previously approved but erroneously removed regulation text sections.

DATES: This rule is effective March 16, 2015, except amendments to § 423.154, which are effective January 1, 2016.

Applicability Dates: Except as specified in Table 1, the applicability date of these provisions is January 1, 2016. In the Supplemental section of this final rule, we provide a table (Table 1) that lists changes in this final rule that have either an effective date other than March 16, 2015 or an applicability date other than January 1, 2016, for Contract Year 2016.

FOR FURTHER INFORMATION CONTACT: Christopher McClintick, (410) 786–4682, Part C issues. Marie Manteuffel, (410) 786–3447, Part D issues. Kristy Nishimoto, (206) 615–2367, Part C and D enrollment and appeals issues. Whitney Johnson, (410) 786–0490, Part C and D payment issues. Joscelyn Lissone, (410) 786–5116, Part C and D compliance issues.

SUPPLEMENTARY INFORMATION: The majority of the provisions listed in this rule are intended for implementation for contract year 2016. Changes in the Code of Federal Regulations (CFR) will be consistent with the effective date of the applicable provision. Table 1 lists those provisions with effective dates other than 30 days after the date of publication of this final rule or applicability dates other than January 1, 2016 for contract year 2016. The applicability and effective dates are discussed in the preamble for each of these items.

TABLE 1—APPLICABILITY AND EFFECTIVE DATES OF SELECT PROVISIONS OF THE FINAL RULE

Preamble section	Section title	Effective date	Applicability date
II.A.2.	Enrollment Eligibility for Individuals Not Lawfully Present in the United States (§§ 417.2, 417.420, 417.422, 417.460, 422.1, 422.50, 422.74, 423.1, 423.30, and 423.44).	.....	June 1, 2015.
II.A.5.	Efficient Dispensing in Long-Term Care Facilities and Other Changes (§ 423.154)	January 1, 2016.	

Table of Contents

Acronyms

ADS Automatic Dispensing System
AHFS American Hospital Formulary Service
AHFS–DI American Hospital Formulary Service-Drug Information
AHRQ Agency for Health Care Research and Quality
ANOC Annual Notice of Change
AO Accrediting Organization
ALR Assisted Living Residence
BBA Balanced Budget Act of 1997 (Pub. L. 105–33)
BBRA [Medicare, Medicaid and State Child Health Insurance Program] Balanced Budget Refinement Act of 1999 (Pub. L. 106–113)
BIPA [Medicare, Medicaid, and SCHIP] Benefits Improvement Protection Act of 2000 (Pub. L. 106–554)
BLA Biologics License Application
BLS Bureau of Labor Statistics
CAHPS Consumer Assessment Health Providers Survey
CAP Corrective Action Plan
CCIP Chronic Care Improvement Program
CC/MCC Complication/Comorbidity and Major Complication/Comorbidity
CCS Certified Coding Specialist
CDC Centers for Disease Control
CGDP Coverage Gap Discount Program
CHIP Children's Health Insurance Programs
CMP Civil Money Penalty
CMR Comprehensive Medical Review
CMS Centers for Medicare & Medicaid Services
CMS–HCC CMS Hierarchal Condition Category
CTM Complaints Tracking Module
COB Coordination of Benefits
CORF Comprehensive Outpatient Rehabilitation Facility
CPC Certified Professional Coder
CY Calendar Year
DEA Drug Enforcement Administration
DIR Direct and Indirect Remuneration
DHS Department of Homeland Security
DME Durable Medical Equipment
DMEPOS Durable Medical Equipment, Prosthetic, Orthotics, and Supplies
D-SNPs Dual Eligible SNPs
DOL U.S. Department of Labor
DUR Drug Utilization Review
EAJR Expedited Access to Judicial Review
EGWP Employer Group/Union-Sponsored Waiver Plan
EOB Explanation of Benefits
EOC Evidence of Coverage
ESRD End-Stage Renal Disease
FACA Federal Advisory Committee Act
FDA Food and Drug Administration
FDR First-tier, Downstream, and Related Entities
FEHBP Federal Employees Health Benefits Plan
FFS Fee-For-Service
FIDE Fully-integrated Dual Eligible
FIDE SNPs Fully-integrated Dual Eligible Special Needs Plans
FMV Fair Market Value
FY Fiscal Year
GAO Government Accountability Office
HAC Hospital-Acquired Conditions
HCPP Health Care Prepayment Plans
HEDIS HealthCare Effectiveness Data and Information Set
HHS [U.S. Department of] Health and Human Services
HIPAA Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104–191)
HMO Health Maintenance Organization
HOS Health Outcome Survey
HPMS Health Plan Management System
ICFs/IID Intermediate care facilities for the mentally retarded
ICL Initial Coverage Limit
ICR Information Collection Requirement
ID Identification
IMD Institutes for mental disease
IT Information Technology
I/T/U Pharmacies Indian Health Service, Tribes and Tribal organizations, and urban Indian organizations (collectively referred to as ''I/T/U'').
IVC Initial Validation Contractor
LCD Local Coverage Determination
LEP Late Enrollment Penalty
LIS Low-Income Subsidy
LPPO Local Preferred Provider Organization
LTC Long Term Care
MA Medicare Advantage
MAAA Member of the American Academy of Actuaries
MA–PD Medicare Advantage-Prescription Drug Plan
MCO Managed Care Organization
MIPPA Medicare Improvements for Patients and Providers Act of 2008 (Pub. L. 110–275)
MOC Medicare Options Compare
MOOP Maximum Out-of-Pocket
MPDPF Medicare Prescription Drug Plan Finder
MMA Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. 108–173)
MS–DRG Medicare Severity Diagnosis Related Group
MSA Metropolitan Statistical Area
MSAs Medical Savings Accounts
MSP Medicare Secondary Payer
MTM Medication Therapy Management
MTMP Medication Therapy Management Program
NAIC National Association of Insurance Commissioners
NCPDP National Council for Prescription Drug Programs
NCQA National Committee for Quality Assurance
NDA New Drug Application
NDC National Drug Code
NGC National Guideline Clearinghouse
NIH National Institutes of Health
NOMNC Notice of Medicare Non-Coverage
NPI National Provider Identifier
OES Occupational Employment Statistics
OIG Office of Inspector General
OMB Office of Management and Budget
OPM Office of Personnel Management
OTC Over the Counter
PACE Programs of the All-Inclusive Care for the Elderly
Part C Medicare Advantage
Part D Medicare Prescription Drug Benefit Program
Part D IRMAA Part D Income Related Monthly Adjustment Amount
PBM Pharmacy Benefit Manager
PDE Prescription Drug Event
PDP Prescription Drug Plan
PFFS Private Fee For Service Plan
POA Present on Admission (Indicator)
POS Point-of-Sale
PPO Preferred Provider Organization
PPS Prospective Payment System
P&T Pharmacy & Therapeutics
QRS Quality Review Study
PACE Programs of All Inclusive Care for the Elderly
PRWORA Personal Responsibility and Work Opportunity Reconciliation Act of 1996
RADV Risk Adjustment Data Validation
RAC Recovery Audit Contractor
RAPS Risk Adjustment Payment System
RPPO Regional Preferred Provider Organization
RTO Return to Operations/Recovery Time Objective
SBA Small Business Association
SCORM Sharable Content Object Reference Model
SEP Special Enrollment Period
SHIP State Health Insurance Assistance Programs
SNF Skilled Nursing Facility
SNP Special Needs Plan
SNP MOC Special Needs Plan Model of Care
SPAP State Pharmaceutical Assistance Programs
SSA Social Security Administration
SSI Supplemental Security Income
T&C Terms and Conditions
TPA Third Party Administrator
TrOOP True Out-Of-Pocket
U&C Usual and Customary
UPIN Uniform Provider Identification Number

USP U.S. Pharmacopoeia
ZPIC Zone Program Integrity Contractor

I. Executive Summary and Background

A. Executive Summary

1. Purpose

The purpose of this final rule is to revise the Medicare Advantage (MA) program (Part C) regulations and Medicare Prescription Drug Benefit Program (Part D) regulations to implement statutory requirements, improve program efficiencies, strengthen beneficiary protections, clarify program requirements, improve payment accuracy, and make various technical changes for contract year 2016.

2. Summary of the Major Provisions

a. Changes to Audit and Inspection Authority (§§ 422.503(d)(2), 423.504(d)(2))

We proposed three changes to our audit and inspection authority. Due to significant concerns raised during the public comment period, we are finalizing only two of those three proposals. First, under section 6408 of the Affordable Care Act, new authority was provided to the Secretary that now requires that each contract provide the right to ''timely'' inspection and audit.

We are revising both §§ 422.503(d)(2) and 423.504(d)(2) to insert the word ''timely'' at the end of both of the introductory paragraphs.

We are also adding language to §§ 422.503(d)(2) and 423.504(d)(2) that will allow us to require that a sponsoring organization hire an independent auditor, working in accordance with CMS specifications, to validate if the deficiencies that were found during a CMS full or partial program audit have been corrected and provide CMS with a copy of the audit findings.

The proposal to require MA organizations and Part D plan sponsors to hire an independent auditor to conduct full or partial program audits will not be finalized.

b. Enrollment Eligibility for Individuals Not Lawfully Present in the United States (§§ 417.2, 417.420, 417.422, 417.460, 422.1, 422.50, 422.74, 423.1, 423.30, 423.44)

After consideration of the public comments, we are finalizing the policies mostly as proposed, with the exception of changes to the regulation text at §§ 417.422, 417.460, 422.50, 423.1, 423.3 and 423.44 to clarify that any individual not lawfully present is no longer eligible to remain enrolled in a cost, MA, or Part D plan, to establish the disenrollment effective date to be the first of the month following notice by CMS of ineligibility, and to delete the term ''qualified alien.'' Further, we are redesignating the current text at § 417.460(b)(2)(iv) as paragraph (b)(2)(v) and finalizing the provision establishing a lack of lawful presence as a basis for disenrollment from a cost plan at paragraph (b)(2)(iv). This provision is consistent with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and with recommendations made by the Office of the Inspector General (OIG) in its January 2013 and October 2013 reports.

c. Business Continuity for MA Organizations & PDP Sponsors (§§ 422.504(o) and 423.505(p))

To respond to concerns raised during the comment period, we revised the regulation text by providing a 72, rather than 24 hour, restoration time period for MA organizations and Part D sponsors after a systems failure. We also revised text as necessary to make clear that we require MA organizations and sponsors to ''plan to'' restore essential functions within the 72-hour time period, rather than guarantee complete restoration within the timeframe. Some commenters thought our intent was to require continuous operations under all conditions, and we revised language from the proposed regulation to make clear that that was not the case in our final rule. Lastly commenters distinguished between Part C and D operations and noted, for instance, that provider payments are not a 24-hour critical function for MA plans since payment is allowed to be made within 30 days and that health and safety would not be put at risk by failure of Part C claims processing and appeals processing. We removed language related to that requirement for MA plans.

d. Efficient Dispensing in Long Term Care Facilities and Other Changes (§ 423.154)

We are finalizing changes to the rule requiring efficient dispensing to Medicare Part D enrollees in long term care (LTC) facilities. Some Part D sponsors (or their pharmacy benefit managers) implemented the short-cycle dispensing requirement by pro-rating monthly dispensing fees, which penalize the offering and adoption of more efficient LTC dispensing techniques compared to less efficient LTC dispensing techniques. This is because when a medication is discontinued before a month's supply has been dispensed, a pharmacy that dispenses the maximum amount of the medication at a time permitted under § 423.154 (which is 14 days' supplies), collects more in dispensing fees than a pharmacy that utilizes dispensing techniques that result in less than maximum quantities being dispensed at a time. In other words, a less efficient pharmacy collects more in dispensing fees than a more efficient pharmacy. This is contrary to the Congress' intent in enacting section 3310 of the Affordable Care Act, which is to reduce medication waste. Therefore, we have finalized a prohibition on payment arrangements that penalize the offering and adoption of more efficient LTC dispensing techniques by prorating dispensing fees based on days' supply or quantity dispensed. We have also finalized a requirement to ensure that any difference in payment methodology among LTC pharmacies incentivizes more efficient dispensing techniques. Other changes to the rule requiring efficient dispensing to Medicare Part D enrollees in LTC facilities are eliminating language that has been misinterpreted as requiring the proration of dispensing fees and making a technical change to the requirement that Part D sponsors report on the nature and quantity of unused brand and generic drugs. We are not finalizing an additional waiver for LTC pharmacies using restock and reuse dispensing methodologies under certain conditions at this time.

3. Summary of Costs and Benefits

TABLE 2—SUMMARY OF COSTS AND BENEFITS

Provision	Total costs	Transfers
Changes to Audit and Inspection	We estimate that this change would require an annual cost of $2 million for the time and effort for all MA organizations or Part D sponsors with audit results that reveal non-compliance with CMS requirements to hire independent auditors to validate that correction has occurred. The total cost for 2015–2019 is estimated to be $10 million.	
Eligibility of enrollment for individuals not lawfully present in the U.S.	N/A	We estimate that this change could save the MA program up to $5 million in 2015, increasing to $8 million in 2019 (total of $32 million over this period), and could save the Part D program (includes the Part D portion of MA–PD plans) up to $5 million in 2015, increasing to $9 million in 2019 (total of $35 million over this period).
Business Continuity Operations	We estimate that this change would require a first year cost of $8 million in 2015, for the time and effort for affected organizations to comply with the business continuity requirements. In subsequent years, 2016–2019, the cost for maintaining the business continuity is estimated to be $4 million. The total cost over the period 2015–2019 is estimated to be $24 million.	

B. Background

1. General Overview and Regulatory History

The Balanced Budget Act of 1997 (BBA) (Pub. L. 105–33) created a new ''Part C'' in the Medicare statute (sections 1851 through 1859 of the Social Security Act (the Act)) which established what is now known as the MA program. The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173), enacted on December 8, 2003, added a new ''Part D'' to the Medicare statute (sections 1860D–1 through 42 of the Act) entitled the Medicare Prescription Drug Benefit Program (Part D), and made significant changes to the existing Part C program, which it named the Medicare Advantage (MA) Program. The MMA directed that important aspects of the Part D program be similar to, and coordinated with, regulations for the MA program. Generally, the provisions enacted in the MMA took effect January 1, 2006. The final rules implementing the MMA for the MA and Part D prescription drug programs appeared in the **Federal Register** on January 28, 2005 (70 FR 4588 through 4741 and 70 FR 4194 through 4585, respectively).

Since the inception of both Parts C and D, we have periodically revised our regulations either to implement statutory directives or to incorporate knowledge obtained through experience with both programs. For instance, in the September 18, 2008 and January 12, 2009 **Federal Register** (73 FR 54226 and 74 FR 1494, respectively), we issued Part C and D regulations to implement provisions in the Medicare Improvement for Patients and Providers Act (MIPPA) (Pub. L. 110–275). We promulgated a separate interim final rule on January 16, 2009 (74 FR 2881) to address MIPPA provisions related to Part D plan formularies. In the final rule that appeared in the April 15, 2010 **Federal Register** (75 FR 19678), we made changes to the Part C and D regulations which strengthened various program participation and exit requirements; strengthened beneficiary protections; ensured that plan offerings to beneficiaries included meaningful differences; improved plan payment rules and processes; improved data collection for oversight and quality assessment; implemented new policies; and clarified existing program policy.

In a final rule that appeared in the April 15, 2011 **Federal Register** (76 FR 21432), we continued our process of implementing improvements in policy consistent with those included in the April 2010 final rule, and also implemented changes to the Part C and Part D programs made by recent legislative changes. The Patient Protection and Affordable Care Act (Pub. L. 111–148), as amended by the Health Care and Education Reconciliation Act (Pub. L. 111–152) (collectively the Affordable Care Act or ACA) added a number of new Medicare provisions and modified many existing provisions. The Affordable Care Act included significant reforms to both the private health insurance industry and the Medicare and Medicaid programs. Provisions in the Affordable Care Act concerning the Part C and D programs largely focused on beneficiary protections, MA payments, and simplification of MA and Part D program processes. These provisions affected implementation of our policies regarding beneficiary cost-sharing, assessing bids for meaningful differences, and ensuring that cost-sharing structures in a plan are transparent to beneficiaries and not excessive. In the April 2011 final rule, we revised regulations on a variety of issues based on the Affordable Care Act and our experience in administering the MA and Part D programs. The rule covered areas such as marketing, including agent/broker training; payments to MA organizations based on quality ratings; standards for determining if organizations are fiscally sound; low income subsidy policy under the Part D program; payment rules for non-contract health care providers; extending current network adequacy standards to Medicare medical savings account (MSA) plans that employ a network of providers; establishing limits on out-of-pocket expenses for MA enrollees; and several revisions to the special needs plan requirements, including changes concerning SNP approvals.

In a final rule that appeared in the April 12, 2012 **Federal Register** (77 FR 22072 through 22175), we made several changes to the Part C and Part D

programs required by statute, including the Affordable Care Act, and made improvements to both programs through modifications reflecting experience we have obtained administering the Part C and Part D programs. Key provisions of that final rule implemented changes closing the Part D coverage gap, or ''donut hole,'' for Medicare beneficiaries who do not already receive low-income subsidies from us by establishing the Medicare Coverage Gap Discount Program. We also included provisions providing new benefit flexibility for fully-integrated dual eligible special needs plans, clarifying coverage of durable medical equipment, and combatting possible fraudulent activity by requiring Part D sponsors to include an active and valid prescriber National Provider Identifier on prescription drug event records.

2. Issuance of the Proposed Rule

In the proposed rule titled ''Contract Year 2015 Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs,'' which appeared in the January 10, 2014 **Federal Register** (79 FR 1918), we proposed to revise the MA program (Part C) regulations and Medicare Prescription Drug Benefit Program (Part D) regulations to implement statutory requirements; strengthen beneficiary protections; improve program efficiencies; and clarify program requirements. The proposed rule also included several provisions designed to improve payment accuracy.

3. Public Comments Received in Response to the Contract Year 2015 Policy and Technical Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs Proposed Rule

We received approximately 7,600 timely pieces of correspondence containing multiple comments on the CY 2015 proposed rule. The majority of correspondence received was in reference to provisions that were either finalized in the final rule that appeared in the **Federal Register** on May 23, 2014 (79 FR 29844) (May 2014 final rule) or that will not be finalized. While we are finalizing in whole or in part approximately 30 of the provisions from the proposed rule in this final rule, there remain a small number of provisions from the proposed rule that were not finalized in the May 2014 final rule and that we are not finalizing in this rule. These provisions are listed later in this section in Table 2.

Public comments on the provisions finalized in this rule were submitted between January 10, 2014 and March 7, 2014. We note that some of the public comments were outside of the scope of the proposed rule provisions that we are finalizing here. These out-of-scope public comments are not addressed in this final rule. Summaries of the public comments that are within the scope of the proposed rule and our responses to those public comments are set forth in the various sections of this final rule under the appropriate heading. However, we note that in this final rule we are not addressing comments received with respect to the provisions of the proposed rule that we are not finalizing.

TABLE 2—PROVISIONS NOT BEING FINALIZED

Proposed Rule January 10, 2014 **Federal Register** (79 FR 1918), section	Topic
	Clarifying Various Program Participation Requirements
III.A.2	Two-year Limitation on Submitting a New Bid in an Area Where an MA has been Required to Terminate a Low-enrollment MA Plan (§ 422.504(a)(19)).
III.A.9	Collections of Premiums and Cost Sharing (§ 423.294).
III.A.12	Separating the Annual Notice of Change (ANOC) from the Evidence of Coverage (EOC) (§ 422.111(a)(3) and 423.128(a)(3)).
III.A.14	Exceptions to Drug Categories or Classes of Clinical Concern (§ 423.120(b)(2)(vi)).
III.A.15	Medication Therapy Management Program (MTMP) under Part D (§ 423.153(d)(1)(v)(A))—outreach strategies.
III.A.23	Medicare Coverage Gap Discount Program and Employer Group Waiver Plans (§ 423.2325)—disclosure requirement for Part D sponsors.
III.A.26	Payments to PDP Plan Sponsors For Qualified Prescription Drug Coverage (§ 423.308) and Payments to Sponsors of Retiree Prescription Drug Plans (§ 423.882).
III.A.38	Authorization of Expansion of Automatic or Passive Enrollment Non-Renewing Dual Eligible SNPs (D-SNPs) to another D-SNP to Support Alignment Procedures (§ 422.60).
	Strengthening Beneficiary Protections
III.C.1	Providing High Quality Health Care (§ 422.504(a)(3) and § 423.505(b)(27)).
III.C.4	Definition of Organization Determination (§ 422.566).
	Strengthening our Ability To Distinguish Stronger Applicants for Part C and D Program Participation and To Remove Consistently Poor Performers
III.D.4	Termination of the Contracts of Medicare Advantage Organizations Offering PDP for Failure for 3 Consecutive Years to Achieve 3 Stars on Both Part C and Part D Summary Star Ratings in the Same Contract Year (§ 422.510).
	Implementing Other Technical Changes
III.E.2	Skilled Nursing Facility Stays (§§ 422.101 and 422.102).

II. Provisions of the Proposed Regulations and Analysis of and Responses to Public Comments

A. Clarifying Various Program Participation Requirements

1. Changes to Audit and Inspection Authority (§§ 422.503(d)(2), 423.504(d)(2))

Sections 1857(d)(2)(A) and 1860D–12(b)(3)(C) of the Act specify that each contract under these sections must state that CMS has the right to audit and inspect the facilities and records of each organization. We proposed three changes to our audit and inspection authority. First, under section 6408 of the Affordable Care Act, new authority was provided to the Secretary that now requires that each contract provide the right to ''timely'' inspection and audit.

We proposed to revise both §§ 422.503(d)(2) and 423.504(d)(2) to reflect this change. Specifically, we proposed to insert the word ''timely'' at the end of both of the introductory paragraphs for §§ 422.503(d)(2) and 423.504(d)(2).

We also proposed to add language to §§ 422.503(d)(2) and 423.504(d)(2) that will allow us to require an MA organization or Part D plan sponsor to hire an independent auditor, working in accordance with CMS specifications, to perform full or partial program audits to determine compliance with CMS requirements and provide to CMS an attestation affirming that the audit has been completed as required.

Lastly, we proposed to add language to §§ 422.503(d)(2) and 423.504(d)(2) that would allow us to require that a sponsoring organization hire an independent auditor, working in accordance with CMS specifications, to validate if the deficiencies that were found during a CMS full or partial program audit have been corrected and provide CMS with a copy of the audit findings.

We received the following comments and our responses follow:

Comment: Some commenters requested that CMS define ''timely'' as it is being added to § 422.503(d)(2) and § 423.504(d)(2) and that CMS define the existing language from paragraph (2) in that same section, specifically: ''when there is reasonable evidence for some need for such inspection.''

Response: We are following the exact working of the statute in adding the word ''timely'' to our current audit and inspection authority. We believe that the Congress recognized that what would be considered ''timely'' is based on a reasonableness standard that may change based on the specific circumstances leading up to the audit. For example, we currently give sponsors 4-weeks notice prior to the start of a routine program audit and we do not envision this change altering that practice. However, if we were to become aware of a situation where beneficiaries' health or safety may be at risk based on a plan's poor performance, we will reserve the right to request records or any needed documentation in an expedited fashion. Therefore, we will not put restrictions on the broadly stated statutory language and believe that this is in line with the spirit and intent of the statutory change. Similarly, the language in paragraph (2) in that same section is not a change, but existing language from our regulations. Again, we believe that the wording is appropriate and does not require additional definition or explanation.

Comment: One commenter suggested we utilize the NCPDP audit standard as a means of standardizing audit communications.

Response: We appreciate the commenter's suggestion and believe this would be a more appropriate approach if our audits largely focused on claim level audits between MA and Part D organizations and the providers or entities they pay. However, program audits cover a wide range of our program areas and corresponding programmatic requirements, many of which go well beyond claim determinations. We have received positive feedback from MA and Part D organizations in the past regarding the level of detail and useful information and feedback in our audit reports, which sponsors rely upon as they work towards implementing any necessary corrective actions. By limiting the communication to the codes and auditing standards used by NCPDP, we believe that—(1) many of our findings would not be adequately covered by these standards; and (2) they would not provide enough detail in many cases to allow for an organization to undertake meaningful correction.

Comment: A commenter suggested that CMS specify that the same organization that performed the audit also perform the validation in order to ensure consistency in interpretation and try to keep costs down, or at the very least require at least one member from the original audit team be a member of the validation team.

Response: We will not be finalizing the proposal requiring organizations to hire an independent auditor to conduct full or partial program audits, but we are finalizing the proposal that we may require an organization to hire an independent auditor to validate correction of audit deficiencies. We will consider the recommendation to include a member from the original audit team in any validation activities whether they be performed by CMS internally or by an independent auditor hired by the MA or Part D organization at CMS' request.

Comment: Some commenters' requested if CMS would set a time limit in which audits must be completed or conducted.

Response: We will not be finalizing the proposal requiring organizations to hire an independent auditor to conduct full or partial program audits, but we are finalizing our proposal that we may require an organization to hire an independent auditor to validate correction of audit deficiencies. We will establish a timeframe in subregulatory guidance based on our current internal validation audit timeline. However, we recognize that some correction activities require more time than others, we will reserve the right to alter those timelines for deficiencies that we believe—(1) a more immediate correction is warranted due to the potential for beneficiary harm; or (2) require a longer correction timeline due to the technical or difficult nature of correction (for example, rebuilding or completely restructuring systems infrastructure).

Comment: A commenter requested if CMS would pay for the cost to hire an independent auditor.

Response: Our proposal was that an MA or Part D organization would retain the independent auditing firm to conduct the audit, but that the plan could account for the costs in their bid. However, we will not be finalizing the proposal requiring organizations to hire an independent auditor to conduct full or partial program audits, but we are finalizing our proposal that we may require an organization to hire an independent auditor to validate correction of audit deficiencies.

Comment: Some commenters requested that CMS cap fees that independent audit firms would charge MA and Part D organizations to perform program audits.

Response: If we decide to pursue this proposal in the future, we will explore our ability to cap the costs of performing these audit activities.

Comment: Many commenters suggested that instead of requiring MA and Part D organizations to hire independent auditors to expand the number of audits conducted each year that we look to the various other compliance and monitoring activities the Agency engages in, which could be used to better target audits or results could be utilized in lieu of audit activities.

Response: We do utilize the data and information obtained about sponsor performance to target our audit efforts as part of the overall risk assessment used to select sponsors for audit. We have also utilized data and information from our various monitoring efforts to assist in determining if certain deficiencies discovered during an audit may have been corrected (for example, if a sponsor had multiple deficiencies in a program area that will at a later date be the subject of a monitoring activity, we may use passing results from that monitoring activity as proof of correction).

Comment: A commenter requested that CMS release the data driven elements of the risk assessment and define a sponsor who is high risk.

Response: We believe that this comment is outside the scope of this final rule. However, we use a variety of existing data points from Medicare Star ratings, past performance and plan reported data, as a few examples, to develop our risk assessment. We focus on metrics that have the potential to affect beneficiary access to medications and services, and also look for operational metrics that program experience has demonstrated can cause contracting organizations to develop performance problems in core program areas (that is, large increases in enrollment over a short period of time). We do not release our risk assessment in its entirety, but these are the areas we focus on when conducting the analysis. Organizations should note that it is our goal to audit all organizations in the MA and Part D program, and the risk assessment is one way plans are selected for audit.

Comment: Some commenters raised concerns over their available recourse if they disagreed with an independent auditor's findings, given the impact on Medicare Star ratings and past performance.

Response: We will not be finalizing the proposal requiring organizations to hire an independent auditor to conduct full or partial program audits, but we are finalizing the proposal that we may require an organization to hire an independent auditor to validate correction of audit deficiencies. Validation results have no impact on Medicare Star ratings or past performance. However, we stated in the proposal that organizations would have an opportunity to rebut audit findings, this would include during validation efforts, and CMS would be reviewing both draft and final reports from the independent auditor. Therefore, we would give organizations an avenue to dispute findings or policy interpretations that organizations believed to be erroneous, even in the more limited use of an independent auditor to validate correction of deficiencies.

Comment: A commenter stated that our proposal did not clarify how organizations hiring an independent auditor to conduct full or partial program audits would affect or involve the Zone Program Integrity Contractors (ZPICs) or the Recovery Audit Contractors (RACs).

Response: The proposal to utilize an independent auditor to conduct full or partial program audits or validations has no impact on ZPICs or RACs, which is why they are not mentioned in our proposal.

Comment: Several commenters suggested that CMS develop a core set of SNP auditors regardless of whether or not we implement our independent auditor proposal, given what the industry perceives as inexperienced or inconsistent SNP findings amongst auditors, which many SNPs believed would be aggravated if organizations were required to retain an independent audit firm. Some suggested that SNP auditors should be accredited by NCQA prior to being allowed to conduct SNP audits.

Response: We believe that this is outside the scope of this proposal, but we thank the commenter for their suggestion to continue to strengthen the CMS MA and Part D audit program. We have conducted additional training and continue to welcome feedback on all of our audit processes and protocols. After the piloting of the SNP MOC protocols in 2013, we conducted specialized feedback sessions with organizations subject to SNP MOC audits and made changes to our protocols, methods of evaluation and training of auditors based on the industry's feedback. We welcome additional feedback and hope that organizations will see continual improvements in our audit processes in 2014 and future years.

Comment: A commenter inquired if the independent auditor proposals applied to PACE organizations.

Response: No, these proposals do not apply to PACE organizations. These regulatory provisions do not apply to PACE plans because we are only proposing changes to Parts 422 and 423 which govern MA, other Managed care plans, and Part D organizations. PACE plans are governed by the regulations in part 460. With respect to this change applying to cost plans, we select sponsors for audit at their parent organization level, and if they have an 1876 cost plan, that contract would be included in our audit. Therefore, the parent organization may be requested to hire an independent auditor to validate the correction of their audit deficiencies. However, if an organization was a standalone cost plan, with no MA or Part D contracts under parts 422 or 423, this requirement would not apply to those organizations, as cost plans are governed by part 417.

Comment: A commenter suggested that CMS develop and implement a robust annual or biannual training program for independent auditors to ensure that they were competent to perform program audits properly.

Response: We will not be finalizing the proposal requiring organizations to hire an independent auditor to conduct full or partial program audits, but we are finalizing the proposal that CMS may require an organization to hire an independent auditor to validate correction of audit deficiencies. We will consider this suggestion if we repropose the larger full scale use of independent auditors to conduct full or partial program audits in the future. We will also share whatever materials we have developed and can provide technical assistance if we request an organization to retain an independent auditor to validate correction of audit deficiencies.

Comment: A commenter suggested that instead of requiring plans to hire an independent auditor we require plans to conduct a robust internal audit and share the results with CMS.

Response: We will not be finalizing the proposal requiring organizations to hire an independent auditor to conduct full or partial program audits, but we are finalizing the proposal that CMS may require an organization to hire an independent auditor to validate correction of audit deficiencies. We currently require organizations to conduct internal auditing and monitoring as part of having an effective compliance program, which we believe for purposes of a healthy and robust compliance program, such activities are appropriate.

Comment: A commenter recommended that much like CMS' use of independent auditors to conduct data validation audits, CMS should set criteria regarding who can conduct program audits. For example, the commenter suggested CMS clarify that organizations that currently assist plans with operations, compliance or consulting are disqualified from performing as independent auditors.

Response: We will not be finalizing the proposal requiring organizations to hire an independent auditor to conduct full or partial program audits, but we are finalizing the proposal that CMS may require an organization to hire an independent auditor to validate

correction of audit deficiencies. We thank the commenter for their suggestion with respect to whom a contracting organization may retain to perform validation of correction of audit deficiencies. We will consider including any key criteria regarding who can perform these validations in subsequent subregulatory guidance.

Comment: A few commenters questioned whether CMS has the statutory authority to require contracting organizations to retain an independent auditor to conduct full or partial program audits. These commenters raised many related issues, such as CMS trying to inappropriately expand their appropriation by requiring contracting organizations to bear the cost of hiring an audit firm to perform a function that the Congress has tasked CMS with performing. Other commenters stated that to the extent these funds expended by plans were later reimbursed by CMS through the bid process, it could implicate the Anti-Deficiency Act.

Response: We will not finalize the proposal requiring organizations to hire an independent auditor to conduct full or partial program audits, but we are finalizing the proposal that we may require an organization to hire an independent auditor to validate correction of audit deficiencies. We do not agree that our proposal allowing us the option to request a plan sponsor to retain an independent auditor to verify that deficiencies that we determined existed during our audit have been corrected implicates the concerns that organizations previously raised regarding our current appropriation or statutory authority. The proposal simply mirrors our current authority where we may require organizations under sanction to retain an independent auditor to perform an independent review to validate that the deficiencies upon which the sanction was based have been corrected and are not likely to recur.

After consideration of all of the comments received, we are finalizing our proposal to revise both §§ 422.503(d)(2) and 423.504(d)(2) to insert the word ''timely'' at the end of both of the introductory paragraphs for §§ 422.503(d)(2) and 423.504(d)(2), and our proposal to have the option to require contracting organizations who were found to have deficiencies during a CMS program audit to hire an independent auditor to validate correction of those deficiencies.

However, based on the strong opposition and valid concerns raised by contracting organizations, we have decided at this time not to finalize our proposal to require plan sponsors to hire an independent auditor no less than every 3 years to conduct full or partial program audits.

2. Enrollment Eligibility for Individuals Not Lawfully Present in the United States (§§ 417.2, 417.420, 417.422, 417.460, 422.1, 422.50, 422.74, 423.1, 423.30, and 423.44)

a. Basic Enrollment Requirements

Sections 226 and 226A of the Act establish the conditions for Medicare Part A entitlement for individuals who have attained age 65, are disabled or have end stage renal disease (ESRD), and are entitled to monthly Social Security benefits under section 202 of the Act; individuals entitled to Part A under these sections do not have to pay premiums for such coverage, and they may, but are not required to, enroll in Medicare Part B. Section 1818 of the Act establishes the conditions for Medicare enrollment for individuals who are not entitled to Medicare Part A without a premium under sections 226 or 226A of the Act. Individuals must have Part B (under section 1836 of the Act) and must also meet citizenship or alien status requirements in order to purchase Part A hospital insurance under section 1818 of the Act; individuals covered under section 1836 of the Act must meet citizenship or alien status requirements, in addition to other requirements, in order to enroll in Part B if they are not entitled to premium-free Medicare under sections 226 or 226A.

Sections 1851(a)(3)(B), 1860D 1(a)(3)(A), and 1876(a)(1)(A) of the Act outline the eligibility requirements to enroll in MA (Part C), Medicare prescription drug coverage (Part D), and Medicare cost plans. To be eligible for MA, Part D, or cost plan coverage, individuals must have active Medicare coverage. Specifically, to enroll in MA, an individual must be entitled to benefits under Part A and be enrolled in Part B; to enroll in Part D, an individual must be entitled to Part A and/or enrolled in Part B; to enroll in a Medicare cost plan, an individual must be enrolled in Part B (Part A entitlement is not required).

b. Medicare Eligibility and Lawful Presence

Section 401 of the PRWORA, amended by section 5561 of the Balanced Budget Act, limits the eligibility of individuals who are not qualified aliens to receive benefits under certain federal programs, including benefits under Title XVIII of the Act (Medicare); these provisions are codified at 8 U.S.C. 1611 and 1641. In general pursuant to 8 U.S.C. 1611(a), an alien who is not a qualified alien is not eligible to receive any federal public benefit. The Congress has established some exceptions to this general rule. One exception, at 8 U.S.C. 1611(b)(3), permits certain aliens to obtain Medicare benefits and applies to an alien who is: (1) Lawfully present in the United States, as determined by the Attorney General and (2) was authorized to be employed with respect to wages attributable to employment, which were counted for the purpose of determining Medicare entitlement under Part A [1]. An alien who is eligible under this exception is able to receive any benefit payable under Medicare. In contrast, an alien that is not lawfully present in the United States is not eligible to receive benefits under Medicare.

As a result, individuals meeting certain criteria are able to earn qualified credits towards Social Security retirement benefits as outlined in 8 U.S.C. 1631 (federal attribution of sponsor's income and resources to alien) and 8 U.S.C. 1645 (Qualifying quarters). Such individuals may earn the total number of qualified credits to be eligible under the Act to receive retirement benefits under sections 226 and 226A of the Act. However, should such individuals be unlawfully present in the United States, under PRWORA they are not eligible to receive the Social Security benefits they have earned for as long as they remain unlawfully present. When they are again lawfully present in the United States, or live outside the United States, they would regain eligibility to receive Social Security payments.

Similarly, when those not lawfully present become eligible for Medicare based on age or disability under the Act, they would also automatically be entitled under the Act to premium free Part A benefits and be eligible under the Act to enroll in Part B during a valid enrollment period. Furthermore, if these same individuals were receiving Social Security retirement benefits 4 months prior to turning 65, or are in their 21st month of receiving Social Security disability benefits, they would also automatically be enrolled into both Part A and Part B, consistent with section 1837 of the Act and the enrollment process outlined in § 407.17. However, again under the PRWORA limitations previously discussed, payments for Medicare benefits cannot be made on behalf of these individuals as long as they are not lawfully present in the United States. Only upon becoming lawfully present would they become

[1] This includes qualified aliens.

eligible to receive the Medicare benefits to which they would otherwise be entitled by paying into Social Security for the requisite number of quarters or paying premiums.

We note that current regulations at §§ 406.28 and 407.27 outline the reasons for loss of premium Part A and Part B enrollment, and do not include the absence of lawful presence or citizenship as a reason for loss of entitlement. Similarly, individuals who are entitled to Part A and enrolled in Part B based on eligibility for Social Security benefits currently may be enrolled in Medicare even if they are not lawfully present in the United States. However, as previously outlined, Medicare benefits are not payable for individuals who are not lawfully present even if such individuals are enrolled in Medicare. Thus, there is a distinction between being ''entitled to Part A'' or ''enrolled in Part B'' as provided for in the Act and being eligible to receive the Part A and Part B benefits that ordinarily flow from such entitlement and enrollment.

c. Alignment of MA, Part D, and Cost Plan Eligibility With Fee for Service (FFS) Payment Exclusion Policy

In order to implement 8 U.S.C. 1611 and ensure that benefits are not incorrectly paid for individuals who are present in the United States unlawfully, the Social Security Administration (SSA) established internal policies and procedures to suspend Social Security benefits during periods in which individuals are not lawfully present in the United States. Because Medicare entitlement flows from entitlement to Social Security retirement and disability benefits, Medicare has also implemented this provision through its own payment exclusion process.

Under Medicare's payment exclusion process, data on lawful presence are transmitted to CMS from the Department of Homeland Security (DHS) via regular data exchanges with SSA. Once the data are received by CMS, lawful presence status is noted on an individual's record and is retained in the FFS claims processing systems. As a result, payment of Part A and Part B claims for non-citizens is denied where lawful presence is not established on their record, and continues to be denied until these individuals regain lawful presence status. Although payment is being denied for claims, individuals who are entitled to Medicare per section 226 of the Act, maintain Part A entitlement and remain enrolled in Part B on Medicare's records as long as Part B premiums are paid. Similarly, individuals who are enrolled in premium Part A or Part B or both under sections 1818 and 1836 of the Act, maintain their enrollment status as long as premiums are paid.

We proposed to align eligibility for enrollment in MA, Part D, and cost plans (and resulting Medicare payments to plans and by plans that would violate PRWORA) with the FFS payment exclusion policy to ensure that Medicare is only paying for benefits and services rendered to individuals who are eligible to receive them. These steps align with the recommendations made by the Office of Inspector General (OIG) in its January 2013 report (A–07–12–01116) [2] regarding the need for CMS to maintain adequate controls to detect and prevent improper payments for Medicare services rendered to beneficiaries who are not lawfully present. Accordingly, we proposed to revise the regulations to establish U.S. citizenship and lawful presence as eligibility requirements for enrollment in MA, Part D, and cost plans. Further, we proposed that individuals who are not lawfully present in the United States would be involuntarily disenrolled from MA, Part D, and cost plans, based on the date on which they lose their lawful presence status. Under our proposal, disenrollments would have been effective the first of the month following the loss of lawful presence status, and the disenrollment process would follow the process currently set forth in the regulations for an individual who is no longer eligible to be enrolled in a plan. Such disenrolled individuals would continue to be considered entitled to Medicare Part A and (if enrolled) enrolled in Part B coverage, provided they continue to pay premiums, as applicable, but as noted payment of FFS claims would be denied based on unlawfully present status.

These proposed regulatory changes were intended to prevent an individual known not to be lawfully present in the United States from enrolling in a Part C, Part D, or cost plan and/or remaining enrolled in such a plan, meaning that payments would not be made to plans or by plans with respect to such individuals during that period. This policy was intended to facilitate compliance with 8 U.S.C. 1611. We proposed the following changes in the regulations to refine the eligibility requirements for the MA and Part D programs and give MA and Part D plans the ability to disenroll individuals who are not lawfully present in the United States:

- Sections 417.420, 417.422, 422.50, and 423.30 would be amended to add lawful presence or United States citizenship as eligibility criteria for enrollment in a cost, MA, or Part D plan.
- Sections 417.460, 422.74, and 423.44 would be amended to require the involuntary disenrollment of individuals from cost, MA or Part D plans if they lose lawful presence status.
- Conforming changes would be made to §§ 417.2, 422.1, and 423.1 to outline the authority for the aforementioned requirements, from 8 U.S.C. 1611 (Aliens who are not qualified aliens ineligible for federal public benefits).

We received the following comments on our proposals:

Comment: Overall we received general support for our proposal. Many commenters requested clarification about who would be responsible for verifying eligibility based on lawful presence. A few of these commenters stated specifically that CMS should verify this aspect of eligibility and that plans should not be expected or permitted to request proof of lawful presence from individuals. A commenter, who did not agree with the proposed change, expressed concern that plans do not have access to data to validate residency/lawful status for Medicare beneficiaries and requested what source would be used for status changes.

Response: We appreciate the support expressed by most commenters. We agree that CMS would have to provide lawful presence information to plans. In most cases, the DHS determines citizenship and lawful presence status and that information is passed to SSA. SSA also has mechanisms to address changes in lawful presence status reported by beneficiaries themselves or other third parties. CMS receives the lawful presence information from SSA after it completes its processes related to such changes in status. Then, we will notify the plan if an individual is not eligible for MA, Part D or cost plan enrollment based on lawful presence and the plan must either deny the enrollment request or process the involuntary disenrollment. Plans are not expected to independently determine lawful presence when processing the enrollment request, nor should they request proof of citizenship from the beneficiary or include lawful presence as an element on the enrollment form. We will notify plans of ineligibility due to unlawful presence, through the same administrative mechanisms currently utilized to notify plans about other

[2] Medicare Improperly Paid Providers Millions of Dollars for Unlawfully Present Beneficiaries Who Received Services During 2009 Through 2011 (A–07–12–01116), available at *http://oig.hhs.gov/oas/reports/region7/71201116.asp.*

involuntary disenrollments. Additionally, we will be providing more detailed information about the necessary processes and procedures in subregulatory guidance.

Comment: A few commenters suggested that we amend the regulations to require a notice for the beneficiaries if they are disenrolled for absence or loss of lawful presence status. Other commenters suggested revisions for the content of a disenrollment notice, specifically suggesting that it contain pertinent information regarding loss of eligibility for enrollment and related impacts to unlawfully present individuals.

Response: Under existing processes at SSA, individuals are notified of their potential change to lawful presence status and are provided an opportunity to be heard in advance of any final changes in status in SSA records (that is, before the information is transmitted to us [3]). We believe that this process by SSA provides adequate notification to the beneficiary and, at this time, CMS will not require an additional notice from the plan at the time of disenrollment. This policy on notification from the plan is similar to CMS processes and regulations for other involuntary disenrollments based on information from CMS,[4] but we will take into consideration the possibility of requiring notice in future rulemaking.

In our existing subregulatory guidance, MA, Part D and cost plans are strongly encouraged to send confirmation of disenrollment to members even when it is not required. We agree that a notice regarding the reason for involuntary disenrollment and the impact unlawful presence status has on the payment of Medicare services would reinforce the messages already provided by SSA, and CMS encourages plans to send such notices in this situation. Sending a confirmation of disenrollment would ensure that these beneficiaries understand the restrictions of their Medicare coverage as they transfer to the FFS program. We appreciate the suggested notice language provided by the commenters and will consider it as we establish a model notice in Chapter 2 and Chapter 17-Subchapter D of the Medicare Managed Care Manual and Chapter 3 of the Medicare Prescription Drug Benefit Manual.

Further, for instances where an unlawfully present individual is denied enrollment into a MA, Part D, or cost plan due to ineligibility, we currently require that the plan provide written notice of the denial.[5] We will consider the suggested language as we modify the existing model denial notices in these subregulatory chapters.

Comment: Several commenters expressed concern about the effective date of disenrollment if it is based on the date of loss of lawful presence status. Specifically, commenters suggested that involuntary disenrollments be prospective because the plan provides coverage on the reasonable assumption of eligibility to receive services. Further, commenters were concerned about the recoupment of capitation payments as a result of these retroactive disenrollments.

Response: In the proposed rule, we proposed that disenrollments would be effective the first of the month following the loss of eligibility to receive federal benefits because this is in line with the statutory requirement that individuals not receive federal benefits when they are not lawfully present in the United States. Operationally, we did not believe it was feasible to maintain enrollment in a Part C, Part D or cost plan for a period for which we would be required to recoup capitations retroactively. Therefore, we proposed a procedural mechanism to default enrollment for such individuals to Original Medicare, where the FFS payment exclusion policy would be applied. Any retroactive disenrollments would under our proposed approach result in recoupment of payments, as supported by existing regulations in §§ 417.464(a)(1), 422.308(f)(1), 423.315(f) and 423.343(a), which require CMS to retroactively adjust plan payments due to changes in enrollment status. At the time we made this proposal, it was consistent with the approach adopted under FFS Medicare, which also made retroactive recoupments in cases in which someone receiving Medicare benefits is determined not to have been eligible for them.

While we believed that this approach was the best way to implement our obligation to comply with PRWORA, in considering comments received on the proposal, we are reconsidering the issue of retroactive disenrollment. First, while our proposal was consistent at the time it was made with FFS policy on retroactive recoupments, we have revised that policy, based on section 1870 of the Act, and are now denying payments only prospectively. We are also aware of due process arguments that may apply to retroactive recoupment. Because, under our systems, retroactive disenrollment would automatically result in retroactive recoupment, and we are reconsidering the issue of whether such retroactive recoupment in the case of Part C, Part D and cost plans is appropriate, we are not finalizing the retroactive aspect of our proposal on disenrollment, and at this time are finalizing only the prospective period of disenrollment provided for in the proposed rule. We are moving forward with finalizing prospective disenrollment while reconsidering the issue of retroactive enrollment because we believe that prospective disenrollment should be put in place as soon as possible, both to implement the prohibition on benefit payments to individuals who are unlawfully present in the United States, and minimize the period of any potential retroactive recoupment in the event we decide at a future point to proceed with our original proposal to disenroll individuals retroactively.

Therefore, we are finalizing text different from our original proposal to make all disenrollments effective the first of the month following the loss of eligibility to receive federal benefits (that is, retroactively), and instead at this time will revise §§ 417.460(j), 422.74(d)(8), and 423.44(d)(8) to provide that disenrollments are effective the first of the month following notice by CMS that the individual is ineligible. This adjustment will ensure that CMS establishes the required mechanisms to permit prospective enrollment into MA, Part D and cost plans only for individuals eligible to receive Medicare benefits, and prospectively disenroll beneficiaries currently enrolled in plans as of this provision's applicability date.

As discussed in the proposed rule, the OIG noted in a January 2013 report that CMS needed to increase efforts to detect and prevent improper payments for Medicare services rendered to unlawfully present beneficiaries. In a subsequent report published in October 2013 [6], the OIG specifically recommended that CMS develop and implement controls to ensure that Medicare does not pay for prescription drugs for unlawfully present beneficiaries and that CMS do so by

[3] Social Security Administration Program Operations Manual System (POMS) RS 00204.010 Lawful Presence Payment Provisions and RS 00204.080 Postentitlement Suspension—Alien is no Longer Lawfully Present.

[4] Notices are required from the plans in cases of certain disenrollments. See 42 CFR.417.430, 422.74(c), and 423.44(c).

[5] Notices are required from the plans in cases of enrollment denials. See 42 CFR 417.430(b)(3), 422.50(e)(3), and 423.32(d).

[6] Medicare Improperly Paid Providers Millions of Dollars for Prescription Drugs Provided to Unlawfully Present Beneficiaries During 2009 Through 2011 (A–07–12–006038) (*http://oig.hhs.gov/oas/reports/region7/71206038.pdf*).

preventing enrollment of unlawfully present beneficiaries, disenrolling any currently enrolled unlawfully present beneficiaries, and automatically rejecting PDE records submitted by sponsors for prescription drugs provided to this population. We believe that prospective disenrollments address these recommendations, and serve as an initial step in ensuring that payment is made for only individuals eligible to receive services. As we move forward with implementation, we will carefully consider enrollment retroactivity and resulting recoupments, and if determined appropriate, propose changes or additional regulations through future rulemaking.

Lastly, we believe it is important to note while CMS is dependent upon the data received by the DHS through SSA, we ensure that the data are passed to the plans within 24 hours of receipt via the Daily Transaction Reply Report. In addition, we will work with these agencies to explore options for receiving these data in the most efficient and timely means possible.

Comment: A few commenters suggested that beneficiaries who are involuntarily disenrolled due to unlawful presence should be entitled to appeal their disenrollment.

Response: We thank these commenters for their suggestion to ensure that affected individuals have the opportunity to appeal the reason for their disenrollment from their plan. Currently, there is no right of appeal associated with MA, Part D or cost plans eligibility or enrollment, because enrollment in such plans is voluntary and involuntary disenrollments are not considered initial determinations as outlined in § 405.924(a). We reiterate that individuals disenrolled from MA, cost or Part D plans are defaulted to coverage under FFS Medicare unless Parts A and B entitlement and enrollment ends under 42 CFR part 406, subpart B and §§ 406.28 and 407.27. However, individuals who are subject to involuntary disenrollment from these plans due to lawful presence status are provided with due process prior to any change in their status by SSA and exchange of any data to CMS and loss of MA, Part D, or cost coverage (or denial of claims for an individual enrolled in the FFS program).

These individuals are provided with advance notification in writing of the possible status change and an opportunity to respond or submit the necessary documentation to maintain a lawful presence status under existing SSA processes.[7] Following a status change to lawful presence status by SSA, individuals are also provided an opportunity to appeal the determination as outlined in 20 CFR 404.902. SSA has existing processes to accept and review evidence from individuals who believe that they are lawfully present and to update SSA's records. These individuals, based on the date of regaining lawful presence status, would then have the opportunity to re-enroll and, in certain cases of government error, be reinstated into their former plans. As we prepare for implementation of this rule, we intend to consider these issues carefully to ensure beneficiaries are notified of the consequences to Medicare coverage that flow from changes in lawful presence status.

Comment: A few commenters requested that CMS put in place a special enrollment period (SEP) for individuals who are disenrolled from their MA or Part D plan based on unlawful presence and then later regain lawful presence status and wish to re-enroll in a Part D or MA plan. In addition, commenters requested that if an individual is involuntarily disenrolled from a Part D plan due to unlawful presence, and that individual later regains lawful presence status, the individual should not be subject to a late enrollment penalty (LEP) for the period of time they did not have Part D (or other creditable) coverage.

Response: We appreciate the concern expressed by the commenters about ensuring access to Medicare coverage and limiting financial consequences after a beneficiary gains, or regains, lawful presence status. Medicare beneficiaries may incur an LEP for Part D if there is a continuous period of 63 days or more at any time after the end of the individual's Part D initial enrollment period (IEP) during which they were eligible for, but did not enroll in, a Medicare Part D plan and were not covered under any creditable prescription drug coverage. If an individual is disenrolled from a Part D plan because of loss of lawful presence status, this is not considered a break in creditable prescription drug coverage because the individual is not eligible for Part D benefits during this time. Therefore, an LEP would not apply for that period of time. If an individual regains lawful presence status and, as a result, also regains Part C and/or Part D eligibility, the individual does not get a new IEP, but we acknowledge that an SEP is warranted to allow these individuals to enroll in an MA or Part D plan, including a cost plan's optional supplemental Part D benefit, under §§ 422.62(b)(4) and 423.36(c)(8)(ii) if the individual is not otherwise eligible for an SEP. The change in lawful presence status of an individual necessary to trigger a change in eligibility under these rules is extraordinary enough to justify the provision of a SEP under the existing authority of §§ 422.62(b)(4) and 423.36(c)(8)(ii), even without the additional concern that late enrollment penalties could be incurred by beneficiaries who are not able to enroll following their regained eligibility for Part D coverage. The parameters of this SEP will be outlined in subregulatory guidance. However, we note that in this scenario if the newly eligible individual does not take advantage of the SEP to enroll in a plan providing Part D coverage and has no other creditable prescription drug coverage, the individual may be subject to an LEP for any future Part D enrollment.

Comment: A few commenters provided feedback regarding the proposed use of the term ''qualified alien'' in the proposed text at §§ 417.422, 417.460, 422.50, 423.1, 423.3, and 423.44. Commenters suggested changing it to more accurately reflect the lawful presence eligibility requirements for Medicare benefits outlined in 8 CFR 1.3 so that we are not restricting eligibility to only qualified noncitizens to enroll in or maintain their benefits. The broader term ''lawfully present'' for this purpose includes ''qualified aliens'' as well as several other categories of non-citizens, whereas the proposed terminology only included ''qualified aliens'' which is one of the subcategories included in those lawfully present.

Response: We agree with the concern raised by commenters and are finalizing the regulatory language at §§ 417.422(h), 417.460(b)(2)(iv), 417.460(j), 422.50(a)(7), 422.74(b)(2)(v), 422.74(d)(8), 423.1(a)(3), 423.30(a)(1)(iii), 423.44(b)(2)(iv), and 423.44(d)(8) without references to qualified aliens; the final regulatory language encompasses all individuals who are lawfully present consistent with 8 CFR 1.3.

After consideration of the public comments received, we are finalizing the policies and regulations text as proposed, with the following exceptions:

- At §§ 417.422, 417.460, 422.50, 423.1, 423.3 and 423.44, we are deleting the term ''qualified alien.''

[7] Social Security Administration, Policy and Operations Manual System (POMS): RS 00204.010. Lawful Presence Payment Provisions, GN 03001.005 Notice Requirements for Title II Due Process Actions, and GN 03001.015 Notices Required Before And After Taking a Title II Adverse Action.

• At §§ 417.460(j), 422.74(d)(8), and 423.44(d)(8), we are modifying the effective date of the involuntary disenrollment to be the first of the month following notification by CMS.

• At § 417.460, we are redesignating paragraph (b)(2)(iv) as paragraph (b)(2)(v) and finalizing the provision establishing a lack of lawful presence as a basis for disenrollment from a cost plan at paragraph (b)(2)(iv).

3. Part D Notice of Changes (§ 423.128(g))

Section 1860D–4(a) of the Act requires Part D sponsors to disclose to beneficiaries information about their Part D drug plans in standardized form. The Act further directs Part D sponsors to include, as appropriate, information that MA organizations must disclose under section 1852(c)(1) of the Act, which includes a detailed description of benefits. (In guidance, we refer to the document containing this information and delivered to beneficiaries as the Evidence of Coverage (EOC).) To make informed decisions, enrollees need to understand how their benefits, including premiums and cost sharing, would change from one year to the next, should they reenroll in the same plan. (In guidance, we refer to the documents containing this information and delivered to beneficiaries as the Annual Notice of Change (ANOC).) Enrollees also need to be aware of changes that may take place during the course of the year as well. Part D regulations currently do not include language found in the Part C regulations at § 422.111(d) requiring notice of changes to the plan to be provided to CMS for review pursuant to procedures for marketing material review and to all enrollees at least 15 days prior to the annual coordinated election period. Given that guidance applicable to both programs discusses notice of changes, we proposed to require, for Part D, delivery of an ANOC.

Specifically, we proposed to adopt in Part D, with modifications, the language contained in § 422.111(d). As is the case with the MA regulation, proposed § 423.128(g) would require that Part D sponsors submit their changes to us under the procedures contained in subpart V of part 423, and, for those changes taking effect on January 1, provide a notice of changes to all enrollees 15 days before the beginning of the annual election period. While part 422 requires a minimum of 30 days notice before the effective date for all other changes, we proposed at § 423.128(g)(3) that Part D sponsors remain subject to all other notice requirements specified elsewhere in the Part D regulations. Our proposal reflected a programmatic difference between Parts C and D: Under Part D it is not unusual for access to drugs listed on a plan's formulary to change during the course of a year. Changes can include changes to formulary status, tier placement, and utilization management or other restrictions. It is vital that beneficiaries currently taking a drug receive timely notice before such changes take place in order that they can decide whether to, for instance, change drugs or request an exception to cover the drug. Accordingly, our regulations currently specify when sponsors must provide notice of these kinds of changes. Our proposal to require the delivery of an ANOC was not intended to disrupt or change those existing notice requirements.

In the proposed rule, we also took the opportunity to comment on the particular importance for Part D sponsors to provide notice in the ANOC of any changes they are making that will affect the amount of cost sharing that enrollees must pay for each drug belonging to a specific tier. As has been articulated in guidance for several years, we expect that sponsors will provide notice of such changes to all enrollees, including enrollees moved to a consolidated plan. Generally, sponsors compare information such as cost sharing for the same plan from one year to the next in the ANOC. However, comparing information for the same plan would not benefit individuals moved from one plan to another. For instance, when a sponsor crosswalks members from a non-renewing plan to a consolidated renewal plan from one year to the next, cost sharing may change at the drug-tier level. An enrollee who previously had zero cost sharing for all covered Part D drugs within the preferred generic tier may find that the consolidated plan now requires copays for drugs in that tier depending on how many months' supplies he or she orders, and whether he or she obtains those drugs at a retail level pharmacy or through mail order. We expect that enrollees will receive ANOCs that clearly compare the non-renewed and consolidated plans' copayments or coinsurance for all drugs within each tier.

We received the following comments on this proposal and our response follows:

Comment: Commenters supported this proposal for informing beneficiaries about their coverage options. Several pointed out that it was important and appropriate for CMS to communicate cost-sharing changes through the Part D ANOC in addition to formulary information. One commenter urged us to perform ongoing monitoring of formulary changes including cost sharing to ensure they are justified and appropriately communicated to beneficiaries.

Response: We thank the commenters for the support. While we appreciate the concerns about monitoring, we did not propose any changes with respect to monitoring of formulary changes, and we decline to address that issue in this final rule.

Comment: Several commenters observed that, while many Part D sponsors already provide this annual notice under CMS guidance, they thought it important that this requirement be made explicit through rulemaking. In contrast, a commenter noted that developing a Part D ANOC was not necessary because of information provided through other material. Another commenter suggested that, if possible, Part D information should be incorporated into the Part C ANOC to avoid the potential for confusion, missing information, and duplicate costs.

Response: We thank the commenters for the support and can confirm that our goal in revising § 423.128(g) is to codify existing guidance. Our existing model ANOC includes sections on both Parts C and D, and CMS produces nine standardized model ANOCs and EOCs for all plan types.

Comment: A commenter requested that CMS confirm that this provision would merely codify existing guidance and would not necessitate any changes in practice for Part D sponsors that already deliver ANOCs that address plan changes consistent with existing CMS guidance.

Response: Section 423.128(g) will not affect current practice for Part D sponsors that that already deliver ANOCs consistent with our model notices.

Comment: A few commenters pointed out that finalizing this revision would add costs due to increased printing and administration requirements, with one commenter noting premiums could possibly increase.

Response: We disagree. Because we did not propose here to change existing practices, but rather only to codify existing guidance, we do not believe the revision to § 423.128(g) will increase costs.

Comment: A commenter suggested that MA organizations and Part D sponsors be required to share ANOCs with LTC providers in plan networks to enable them to better coordinate and support the beneficiaries in making informed decisions when their health

conditions limit their ability to effectively communicate about their coverage. Another commenter suggested that we add language to the Part D ANOC advising beneficiaries for the future that it was important to review the new contract year formulary.

Response: We appreciate these suggestions and will take them into consideration for the future for our guidance on the model notices. However we decline to accept the commenter's suggestion to add this to the regulation text because, as previously noted, our proposal was intended to codify existing guidance.

After review of the public comments received, we are finalizing this provision as proposed without modification.

4. Business Continuity for MA Organizations and Part D Sponsors (§ 422.504(o) and § 423.505(p))

A variety of events ranging from power outages to disasters and warnings of disasters can disrupt normal business operations, and when these events occur it is important that MA organizations and Part D sponsors have a plan to ensure beneficiary access to health care services and drugs. Sections 1852(d) and 1860D–4(b) of the Act, respectively applicable to Parts C and D, establish access to services and covered Part D drugs as a core beneficiary protection. After Hurricane Sandy it became apparent that a few entities, particularly those with operational centers and/or information technology (IT) resources physically located in the affected areas, did not have consistent continuity plans or back-up systems and processes to ensure ongoing coordinated deployment of critical staff to alternate locations.

Sections 1857(e)(1) and 1860D–12(b)(3)(D) of the Act authorize the Secretary to adopt additional contract terms for, respectively, MA organizations and Part D sponsors, including section 1876 cost contracts and Programs of the All-Inclusive Care for the Elderly (PACE) organizations that provide qualified prescription drug coverage, that are not inconsistent with Parts C and D, respectively, of Title XVIII of the Act, when the Secretary finds it necessary and appropriate. While a limited number of beneficiaries were affected by problems on the part of a small number of entities as a result of Hurricane Sandy, we have a goal of consistent disaster response for plans within the scope of our proposal. Therefore, we proposed that all MA organizations and Part D sponsors limit the impact on beneficiaries of unavoidable disruptions and establish a plan to ensure rapid restoration of operations. The scope of our proposal included section 1876 cost contract and PACE organizations that provide qualified prescription drug coverage under Part D. We also proposed to add contract provisions to require that MA organizations and Part D sponsors develop and maintain business continuity plans in order to better anticipate the types of disruptions that could occur and implement policies and procedures to reduce interference with business operations. Our proposal was based on a belief that such planning is appropriate and necessary to better ensure that Medicare beneficiaries have access to the care and coverage contemplated by the statute.

The proposed provisions, in §§ 422.504(o)(1) and 423.505(p)(1), would require that every MA organization and Part D sponsor develop, maintain, and implement a business continuity plan that meets certain minimum standards. In §§ 422.504(o)(1)(i) and 423.505(p)(1)(i), we proposed that the business continuity plan assess risks posed to critical business operations by disasters and other disruptions to business as usual; in the preamble, we clarified that our proposal would apply regardless whether the risks, disasters or disruptions be natural, human, or environmental. In paragraph (1)(ii) of §§ 422.504(o) and 423.505(p), we proposed to require MA organizations and Part D sponsors to mitigate those risks through a variety of strategies, at a minimum by: (1) Identifying events (triggers) that would activate the business continuity plan; (2) developing contingency plans to maintain the availability and, as applicable, the confidentiality of hard copy and electronic essential records, including a disaster recovery plan for IT and beneficiary communication systems; (3) establishing a chain of command, which would better ensure that employees know the rules of succession; (4) creating a communications plan that includes emergency capabilities and means to communicate with employees and third parties; (5) establishing procedures to address management of space and transfer of employee functions; and (6) establishing a restoration plan with procedures to transition back to normal operations. Finally, we also proposed, in §§ 422.504(o)(1)(ii)(G) and 423.505(p)(1)(ii)(G), that the business continuity plan comply with all applicable federal, state, and local laws. In light of the nature of the records an MA organization or Part D sponsor would have in its possession, we proposed to emphasize continuing compliance with the contingency plan requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Security Rule (45 CFR parts 160 and 164, subparts A and C) by including a cross-reference to those requirements in paragraph (1)(ii)(B)(2) of each proposed regulation. These areas of responsibility are essential to continuing the business operations that allow beneficiaries to access health care services and covered Part D drugs.

To better ensure that a business continuity plan works as a practical matter, we next proposed in §§ 422.504(o)(1)(iii) and (iv) and 423.505(p)(1)(iii) and (iv) to require that on an annual basis, each MA organization and Part D sponsor test and revise the plan as necessary, and train employees on their responsibilities under the plan. Proposed §§ 422.504(o)(1)(v) and 423.505(p)(1)(v) would require that MA organizations and Part D sponsors keep records of their business continuity plans that would be available to CMS upon request.

We stated our belief that the broad list of areas that we proposed to cover as part of business continuity plans were not new to MA organizations and Part D sponsors. We stated these topics typically appear in standard business continuity plans and that we also were building on some requirements that already existed under federal and state laws. For instance, with respect to electronic protected health information, health plans have long had to comply with the contingency plan requirements found in the HIPAA Security Rule. We indicated our goal was to provide a list broad enough to align with the business contingency plans that we believed most, if not the vast majority, of MA organizations and Part D sponsors already had in place.

In contrast to the aforementioned list of broad content requirements, we stated that the need to protect beneficiary access required a prescriptive approach for some functions. In proposed §§ 422.504(o)(2) and 423.505(p)(2), as part of the proposal that essential functions must be restored within 24 hours of failure (whether due to disaster, emergency, or other disruption), we identified what we believed to be the minimum essential functions for both MA and Part D plans: Benefit authorization, if authorization requirements have not been waived, and claims adjudication and processing; an exceptions and appeals process; and call center operations. We stated that given the mandate of the Act to ensure beneficiary access to health care and

covered Part D drugs and the inability of many beneficiaries to pay for services or drugs without the Medicare benefit, we believed that the operations listed in the proposed regulations were the most essential operations because they directly supported the provision of Part C and D benefits. We stated that they ensured immediate electronic communication on the availability and extent of Part C and D benefits and also provided support that makes it more likely that Medicare benefits will be appropriately and timely provided (for example, by providing telephone assistance to beneficiaries with questions on how to obtain benefits and maintaining a forum in which beneficiaries can challenge benefit denials). We observed that without real time provision of Medicare benefits, beneficiaries might not pay for the entire cost of the services or drugs and therefore go without necessary treatment.

We also proposed a list of the operations that we believed were essential operations that had to be restored in a rapid time frame. We intended our proposed deadline of the proposed 24 hours to be the outside limit and at that time articulated an expectation that MA organizations and Part D sponsors restore operation of essential functions as soon as possible but not later than 24 hours after they fail or otherwise stop functioning as usual. We stated the clock would begin running in cases of total failure (for example, a computer or telecommunications system crashes or stops working after disruption of the power supply) and also when significant problems occur (for example, a central database is corrupted).

We stated that the need to ensure correct claims adjudication and benefit administration of health care services and drugs is no less acute during disasters or other emergencies, and that such disruptions in one part of the country might disable MA organization and Part D sponsor systems that affect enrollees in other regions. We noted that beneficiaries in those unaffected areas who are denied health care or drug benefits (that is, access to drugs or reimbursement for claims paid out of pocket) before the disruption took place should not be denied the right to immediately challenge those denials or to learn timely the resolution of earlier challenges. As proposed, §§ 422.504(o)(2)(i) and 423.505(p)(2)(i) identified benefit authorization (if not waived) and claim adjudication and processing as essential functions which had to be operational within 24 hours. Our proposal required restoration of those operations for services rendered at a hospital, clinic, provider office, or at the point of sale for Part D covered drugs. We also stated in the proposed rule that this function was essential for both MA and Part D plans.

In addition, we proposed standards specific to Part D sponsors in § 423.505(p)(2)(ii) and (iii) to ensure that a beneficiary who presents at a pharmacy with an appropriate prescription for a covered Part D drug during a disruption would be more likely to receive the drug at the point of sale. The first three prongs under proposed § 423.505(p)(2) classified as essential the following functions: (i) Authorization, adjudication, and processing of pharmacy claims at the point of sale; (ii) administration and tracking of enrollee's drug benefits in real time, including automated coordination of benefits with other payers; and (iii) provision of pharmacy technical assistance. We noted these essential tasks entail numerous subfunctions. For instance, we stated that Part D sponsors would need to restore within the 24 hour return to operations (RTO) all computer and other systems that meet all privacy and security requirements in order to communicate to pharmacies information about topics including: coverage under Part D and the specific plan; cost-sharing and deductibles; any restrictions such as prior authorization, step therapy, or quantity limit edits; and coordination of benefits from other insurers and any low income subsidies. Additionally, we noted that the sponsor would need to undertake a concurrent drug utilization review (DUR) to address, for instance, safety issues, as well as restore its pharmacy help desk to provide prompt answers to any questions pharmacies might have. (For more detail on some of these functions and sub-functions, as related to Part D, please see section III. A.10, ''Requirement for Applicants or their Contracted First Tier, Downstream, or Related Entities to Have Experience in the Part D Program Providing Key Part D Functions'' of the May 23, 2014 final rule (79 FR 29867)).

Proposed §§ 422.504(o)(2)(ii) and 423.505(p)(2)(iv) each classified as an essential operation an enrollee exceptions and appeals process including coverage determinations. Under these proposed rules we specified that, within 24 hours of failure, MA organizations and Part D sponsors would need to restore all IT and workforce support necessary to maintain the ''safety net'' that ensures beneficiaries the rights to appeal or to seek a formulary exception.

Finally, for both MA organizations and Part D sponsors, we proposed that the operation of the call center be an essential function which must be restored within 24 hours. We stated that by classifying operation of the call center as essential, proposed §§ 422.504(o)(2)(iii) and 423.505(p)(2)(v) would ensure that beneficiaries could receive the information necessary to find out where they need to go to access benefits and learn about any special rules that might apply (for example, whether pre-authorization requirements are waived or beneficiaries can obtain benefits at out-of-network providers or pharmacies). We stated that enabling a beneficiary who has just been denied Part D coverage at his or her usual pharmacy to call immediately and speak to a customer service representative while still standing in that pharmacy could ensure that he or she obtained drugs appropriately covered by his or her Part D plan before returning home or moving to a safer area.

Furthermore, in the proposed rule we stated that because it might be difficult during a disaster to get to a provider's office or a pharmacy, we believed it was important that benefit authorization, claims adjudication, and call center operations be restored within 24 hours after failure. While our proposed provisions required both MA organizations and Part D sponsors to coordinate their workforce, facilities, and IT and other systems support to meet a 24 hour RTO, in the preamble to the proposed rule we noted our belief that the vast majority of MA organizations and Part D sponsors already met, or would be able to meet, this requirement with their current resources, based on our knowledge of the industry and as evidenced by the lack of widespread problems with MA organization and Part D operations after recent natural disasters in different parts of the country. We observed that MA organizations and Part D sponsors would not be required to take any prescribed specific actions (for example, there was no requirement for redundant systems located at certain distances apart) to meet these standards. Rather, we stated that the proposed 24-hour RTO would allow MA organizations and Part D sponsors the flexibility to continue to seek their own disaster preparedness solutions (for instance, vendor sites or functions spread across facilities).

We stated that our goal in proposing a contractual requirement for business continuity plans was to better ensure beneficiary access to health care services and Part D drugs during disasters and other interruptions to

regular business operations, and we viewed prior planning as essential to achieving this goal. We specifically solicited comments regarding which functions should be identified as essential operations and the 24-hour timeframe for RTO and stated that we would appreciate any information unique to the role of MA organizations and Part D sponsors.

We received the following comments on these proposals and our response follows:

Comment: Some commenters strongly supported the proposed provision and noted that it was absolutely critical that MA organizations develop and test business continuity plans to ensure that beneficiary needs are met and commended CMS for its commitment to ensure beneficiary access to Medicare benefits. A number of commenters specifically approved that part of the proposed regulation that set forth minimum standards. Additionally, several commenters, including some who did not support the specific requirements of the proposed provision, agreed that there was a need for ''robust'' business continuity plans.

Response: We thank those commenters who support the proposal in its entirety or approved the general outline of minimum requirements, as well as those who recognized there is a need for MA organizations and Part D sponsors to have business continuity plans.

Comment: Noting that CMS acknowledged in the preamble there were relatively few problems in the past, some commenters stated that industry practices were adequate and questioned the need for detailed provisions that classified certain functions as essential which had to be restored within a 24-hour RTO deadline. A few commenters pointed to the fact, also acknowledged by CMS in the preamble, that the requirements overlapped with other existing federal, state, and local requirements such as the HIPAA Security Rule and stated that they saw no need for an additional layer of regulation. In contrast, another commenter stated that developing a business continuity plan should not be overly burdensome because the HIPAA Security Rule already requires development of such a plan.

Response: We appreciate the fact that, as far as we are aware, only a limited number of beneficiaries experienced problems as the result of inadequate continuity planning in the wake of Hurricane Sandy. However, there were some beneficiaries who were unable to access benefits, and contingency planning might have prevented some of those problems. Having a business continuity plan to prepare for business disruptions is an established business practice; the fact that most MA organizations and Part D sponsors successfully handled the disaster does not excuse those entities that did not.

We do not believe that requiring a business continuity plan is imposing an unnecessary level of regulation. However, we would like to clarify that HIPAA requirements are distinct from our business continuity provision. As we noted previously, with respect to electronic protected health information, health plans have long had to comply with the contingency plan requirements found in the HIPAA Security Rule. Referencing this rule created no additional burden.

Comment: Commenters stated that the regulation was significantly more detailed than necessary. While some commenters pointed to concerns regarding paragraph (1) of §§ 422.504(o) and 423.505(p) which lists basic minimum requirements (addressed later in this section), most commenters noted concern with paragraph (2) of §§ 422.504(o) and 423.505(p) which identified as essential specific functions and required that MA organizations and Part D sponsors restore them within 24 hours of failure or loss of function.

- The majority of commenters opposed the requirement that MA organizations and Part D sponsors restore essential functions within 24 hours, with several stating this was not feasible. Many commenters noted that because catastrophes are by their nature hard to predict, out of the control of MA organizations and Part D sponsors, and result in major disruptions that have the potential to last for weeks (for instance, power outages), a 24-hour RTO deadline would hamper the flexibility of MA organizations and Part D sponsors to prioritize. A commenter suggested that we institute a ''force majeure'' clause to provide relief for causes beyond the control of MA organizations and Part D.
- Commenters indicated that they generally agreed with CMS that the emphasis should be on quickly getting care to those beneficiaries who need it, and there was some consensus that providing drugs and services at point-of-sale (POS) should remain an essential function. Several commenters observed that, consistent with industry standards, Part D sponsors were generally able to restore the systems necessary to allow beneficiaries to obtain drugs within approximately 24 hours. For instance, a commenter identified benefit authorization, claims adjudication, and pharmacy services as higher priorities. Some commenters specifically identified call center services as time-sensitive functions requiring a 24-hour recovery.
- However, there was no clear consensus on the specific functions that should be considered essential or even how to prioritize among all of them. For instance, a commenter noted normal appeals would fall into a longer category than 24 hours recovery, but that expedited appeals might possibly fall within the 24 hour time line. Several commenters suggested that different functions would require different RTO time frames. Several commenters mentioned a 72-hour timeframe, with one noting it restored functions less critical for health and safety within 72, rather than 24, hours.
- In evaluating essential functions, a number of commenters distinguished between the Part C and D programs. Commenters observed, for instance, that provider payments are not a 24-hour critical function for MA plans since payment is allowed to be made within 30 days and that in a disaster or emergency MA organizations should not be required to prioritize claims processing for services already rendered. In contrast, a few commenters agreed that the 24-hour restoration requirement could be applied to Part D point-of-sale claims that require immediate adjudication.

Response: These commenters persuaded us that we need to build more flexibility into our business continuity plan requirements for RTO for essential functions and we are accordingly finalizing the regulation with changes from our proposal. In paragraph (2) of §§ 422.504(o) and 423.505(p), we are providing that MA organizations and Part D sponsors must plan to restore essential functions within 72, rather than 24, hours after any one of the essential functions fail or otherwise stop functioning as usual. As discussed in more detail later in this section, we also finalize regulation text to clarify that we require MA organizations and sponsors to ''plan to'' restore essential functions within the 72-hour time period, rather than guarantee complete restoration within the time frame. Given the lack of a clear consensus on how to prioritize all essential functions, we believe that this will provide MA organizations and Part D sponsors with the flexibility the commenters advocated, and still address our concerns about planning to better ensure beneficiary access to the Medicare benefit.

However, we underscore that although we are finalizing a more flexible regulatory mandate, we expect that Part D sponsors will plan for a 24-

hour RTO deadline for POS transactions. We are concerned that beneficiaries who are not able to access their Part D drug coverage may in fact suffer adverse health effects. Our decision not to explicitly require a plan for a 24-hour restoration for POS drug transactions is informed by the fact that commenters suggested that a 24-hour RTO for POS transactions is an industry standard already generally met, and that relatively few problems were reported in the aftermath of recent disasters. We want to ensure that that track record not only continues but improves. We will continue to closely monitor the timing of POS transaction in the aftermath of disasters, emergencies, and other disruptions and take any necessary actions. We also will revisit the regulation if necessary.

We also agreed with commenters that there are distinctions between the Part C and D programs relative to identifying what services are of the highest priority for speedy restoration. For instance, beneficiaries need to know whether they have Part D Medicare coverage at the POS because usually they rely on the benefit to obtain prescription drugs. For most beneficiaries, such claim denials may mean they leave pharmacies without medications or pay out-of-pocket for costs that are their plans' responsibility. In contrast, this is often not the case for Part C health care services. Provision of Part C services is not so closely tied to plan authorizations and a provider may not bill the MA organization for services until days or weeks after the service is furnished. Thus, because beneficiary health and safety would not be put at risk by failure of Part C claims processing and appeals processes, we agree with the commenters that those systems are not essential functions to which the 72-hour timeframe would apply. Furthermore, as finalized in section II.E.9. of this final rule (MA Organization Responsibilities in Disasters and Emergencies (§ 422.100)), beneficiary access to health care services is protected in the more limited circumstances of disasters and public health emergencies and we believe that provision, in conjunction with § 422.504(o)(2), ensures, to the extent possible, that beneficiaries enrolled in MA organizations will have continued access to needed health care services when there are disruptions to normal business operations.

Accordingly we are finalizing § 422.504(o)(2) to define as essential services, for Part C purposes, benefit authorization (if not waived) for services to be immediately furnished at a hospital, clinic, provider office, or other place of service instead of the broader requirement that was proposed. This final rule text would include benefit authorization to the extent that members and providers contact the MA organization to request such authorizations even when the MA organization has waived that requirement.

Similarly, we agree that restoration of Part C claims processing and appeals processes are not essential functions in that beneficiary health and safety is not put at risk by a failure of those systems that lasts for longer than 72 hours. We agree with the commenters that in a disaster or emergency, MA organizations should not be required to prioritize claims for services already rendered, but we do not want beneficiaries to lose access to necessary treatment at provider offices. Accordingly, for Part C, we are no longer characterizing ''Operation of an enrollee exceptions and appeals process including coverage determinations'' as an essential function and are not finalizing that part of our proposal for § 422.504(o)(2).

Lastly, we agree with the commenters that characterized call center services as high priorities for both Part C and Part D plans. In a disaster or other emergency, normal procedures may be disrupted and beneficiaries need to be able to find out how and where they can obtain health care services and drugs by having contact with the plan.

In contrast, for Part D we plan to finalize § 423.505(p)(2) as proposed. We discussed the importance of the elements in more detail in the preamble to the proposed rule, but would like to note here that a beneficiary cannot obtain Part D coverage without benefits authorization, adjudication, and processing of drug claims at the point of sale. A pharmacy's inability to obtain, for instance, coordination of benefits information may affect the beneficiary's ability to obtain the drug as well; and pharmacy technical assistance is critical in case the dispensing pharmacy has questions. We also believe the operation of the enrollee exceptions and appeals process is essential—a beneficiary who has been denied Part D coverage will want to resolve quickly any issues so he or she can obtain the drug timely. Lastly, as previously noted, we believe call center operations are essential.

Comment: A commenter suggested there was a need for more detail in addition to that provided in the regulation as to exactly when the 24-hour clock would start and that CMS would, for instance, need to clarify if the clock would begin running when the disaster was declared or when it occurred. Another commenter suggested the proposed 24-hour RTO should begin running when the incident management team made the determination of action or after a specified amount of time after the disruption was reported.

Response: We believe that the language we proposed, namely that the clock will start running ''after any of the essential functions fail or otherwise stop functioning as usual,'' provides adequate direction to MA organizations and Part D sponsors. We are finalizing a clearly defined time period—72 hours (rather than the 24-hour time period proposed)—in which MA organizations and Part D sponsors must plan to restore essential operations. In contrast, we deliberately chose to provide more flexibility to MA organizations and Part D sponsors to determine the precise point at which the 72-hour clock starts running. Essential functions could fail in an infinite variety of ways depending on the circumstances and the systems and supports in place (for instance, claims processing systems might fail in different ways than operation of the exceptions and appeals process). We believe that MA organizations and Part D sponsors are in the best position to both learn about failures or disruptions in usual functions or the facts that might potentially cause them and, in the aftermath of such occurrences, gather as much information as possible internally and from outside sources (such as first-tier, downstream and related entities (FDRs) and local authorities and utilities). We will revisit this regulation if problems arise in the future.

Comment: A couple of commenters expressed concern that the requirement that MA organizations and Part D sponsors return functions to ''normal'' operations would not permit them to utilize temporary alternative workflows that could be more effective than normal business operations in preserving member access to care.

Response: We disagree with this conclusion. Our proposal does not require MA organizations and Part D sponsors to return immediately to normal operations but rather, views that as an ultimate goal in an ongoing transition process. Paragraph (1)(ii) of §§ 422.504(o) and 423.505(p) requires MA organizations and Part D sponsors to create a mitigation strategy to ''prioritize the order in which to restore [essential and] other functions to normal operations'', while paragraph (1)(ii)(F) of §§ 422.504(o) and 423.505(p) requires MA organizations and Part D sponsors to ''[e]stablish a restoration plan including procedures to transition to normal operations.'' Additionally, we do not define ''normal operations.'' In

fact, depending on the severity of a disaster or emergency, ''normal operations'' certainly might not be operations performed exactly the same as they were before the event. We do not prescribe when or how normal functions are performed; an MA organization or Part D sponsor may achieve a comparable level of performance (for example, in terms of appeals being heard on a timely basis at the same rate as before the disaster) and consider normal operations achieved even if different personnel or offices now perform those functions. We view ''normal operations'' as an operational level at which MA organizations and Part D sponsors are able to administer the benefit correctly and fulfill contract requirements.

Comment: A commenter stated that the proposed provisions were inconsistent with Executive Order 13563 which requires that proposed rules specify performance objectives rather than the behavior or manner of compliance that regulated entities must adopt.

Response: We disagree with this commenter. The first part of our proposed provisions simply lists basic areas that business continuity plans must cover. We also view as performance objectives the list of essential functions for which we require MA organizations and Part D sponsors to plan a 72-hour RTO. As revised, the regulation requires that each entity plan to restore those functions that directly support the timely provision of Part C and D Medicare benefits to beneficiaries. We leave it to the MA organizations and Part D sponsors to determine the manner by which they plan to meet these requirements timely after a failure occurs.

Comment: Commenters took issue with the costs associated with the proposal. A number of commenters expressed concerns that we were requiring continuous service which would give rise to enormous costs to create systems redundancy, while several commenters were concerned about the cost of testing IT systems on an annual basis.

Response: Although we believe the proposed regulation was clear in paragraphs (1)(ii)(B)(*1*) of §§ 422.504(o) and 423.505(p) that we do not expect plans to be able to maintain continuous service under all circumstances, we are revising both of these regulation paragraphs in this final rule to clarify the language that we believe caused this confusion. We are revising the language in the proposed paragraph (1) of §§ 422.504(o) and 423.505(p) to require MA organizations and Part D sponsors to plan to restore business operations following disruptions, rather than plan to continue business operations during disruptions.

To clarify, we do not expect MA organizations and Part D sponsors to prevent any disruptions on an absolute basis but rather to plan to ensure operations are restored as best they can when business operations fail. It is understood that disasters, emergencies, and other events may cause severe disruptions outside of the control of MA organizations and Part D sponsors; the reason we are requiring business continuity plans is to ensure that MA organizations and Part D sponsors are better equipped to handle those problems when they occur.

Additionally, proposed §§ 422.504(o)(2) and 423.505(p)(2) required that MA organizations and Part D sponsors ''restore'' essential functions within the specified timeframe, which we believe raises the same concerns expressed by the commenter. We want to make it clear that the actual restoration of essential functions within 72 hours is the goal of the business continuity plan, not a requirement that is to be met in all circumstances. Accordingly, the regulation is being finalized to require that MA organizations and Part D sponsors plan to restore essential functions within the 72-hour time period. The business continuity plan must be designed with this 72-hour period as a deadline.

As to the commenters' concern about the cost of annual IT training, paragraph (1)(iii) of §§ 422.504(o) and 423.505(p) requires MA organizations and Part D sponsors to test and update the business operations continuity plan on at least an annual basis. This broad description does not detail specific kinds of testing but relies upon MA organizations and Part D sponsor discretion to adequately test and update the business continuity plan. This would include determining exactly what must be tested and how such testing must occur.

Comment: A commenter expressed concern that the rule would require annual training for ''all'' employees, which might not be necessary under all conditions.

Response: We agree that it is best left to MA organizations and Part D sponsors to determine which employees would most appropriately require annual training on the business continuity plan. We are finalizing the regulations to require annual training of appropriate employees rather than all employees, as well as making changes to make the language applying to both Parts C and D consistent. Specifically, we are removing the phrase ''all employees, including contract staff'' from § 422.504(o)(1)(iv) and ''all new and existing employees'' from § 423.505(p)(1)(iv), and replacing them both with ''appropriate employees''.

Comment: Several commenters suggested that our regulatory impact analysis (RIA) significantly underestimated costs. Concerns were raised about the high cost of creating systems' redundancy to avoid any disruption of processing of claims; one commenter mentioned that the requirement would necessitate spending millions of dollars. Another commenter mentioned that many business continuity plans currently in place for MA organizations and Part D sponsors would not meet requirements such as the restoration of essential functions within 24 hours. A commenter was concerned that the estimate did not take into account resources needed to ascertain the extent of damage and evaluate options.

Response: We believe that the modifications, clarifications, and comments discussed previously about this final rule address the vast majority of concerns raised about the RIA. We are also well aware of the major expense of creating redundant computer systems to ensure there is no interruption in claims processing—and repeat that we are not requiring MA organizations and Part D sponsors to absolutely ensure that systems never fail or to build redundant systems to avoid any potential failure. We are requiring that MA organizations and Part D sponsors plan to avoid such system and other failures and, in the event they do occur, to be prepared to recover essential functions within a certain timeframe. We appreciate that while contracting organizations may plan—even plan well—to avoid such disruptions and to recover from them within 72 hours, there may be scenarios in which a return of functionality for essential operations within the timeframe of paragraph (2) of §§ 422.504(o) and 423.505(p) is impossible . We also believe that providing the greater flexibility to plan for a 72-hour, rather than 24-hour, RTO for MA organizations and Part D sponsors should further alleviate concerns about high costs.

In this final rule, we also are revising the regulations to clarify that we require annual training of ''appropriate'' rather than ''all'' employees. As noted earlier, our requirement for annual testing of the business continuity plan does not specify exactly what must be tested or how such testing must be conducted. As to the last comment, MA organizations and Part D sponsors need to assess damages and evaluate alternatives

regardless of whether they have business continuity plans.

Additionally, we have revised our cost estimates to account for costs of what we believe will be, at most, minimal changes to existing business continuity plans. We base this on: (1) The fact that we believe most MA organizations and Part D sponsors with existing business continuity plans already cover the same broad list of areas we require in this rule; and (2) revisions to our rule that provide flexibility that enables most MA organizations and Part D sponsors to follow the same industry standards commenters suggested they currently follow. (See section IV. Regulatory Impact Statement of this final rule.)

Comment: A commenter stated that MA organizations and Part D sponsors could incur potentially very large additional costs to come into compliance with the new requirements which would amount to unexpected expenses that would unfairly count against a plan's administrative expenses on its medical loss ratio (MLR) calculation.

Response: Items that count as MLR are outside of the scope of this final rule. However, we note that this final rule will apply to all MA organizations and Part D sponsors and that we believe strongly that planning for the least disruption to operations and better provision of health care and drug benefits during disasters is an important function for insurance companies, and that such work will also benefit the MA organizations and Part D sponsors themselves.

Comment: Noting that they are confidential and contain blueprint information on processes and supporting resources, a commenter requested that rather than make business continuity plans available to CMS upon request, that CMS require an in-camera review of certain elements. In contrast, another commenter recommended that CMS review such plans as part of the Medicare Part D application process as well as via regular CMS compliance audits. A third requested whether there would be an audit element that focuses on business continuity plans.

Response: We appreciate the commenter's concerns about confidentiality. First, we would like to note that we are not requiring MA organizations and Part D sponsors to submit these business continuity plans and materials as a matter of course or to make such plans publicly available. Furthermore, if we do request these documents, we do not intend to voluntarily disclose them to any parties outside of the government. Under the Freedom of Information Act (FOIA), members of the public may request government records, which may include documents submitted to us. MA organizations and Part D sponsors may seek to protect their information from disclosure under FOIA by claiming FOIA exemption 4 and taking the appropriate steps—including labelling the information in question as ''confidential'' or ''proprietary.'' Furthermore, redaction of especially sensitive information is sometimes an option, depending on what information CMS needs and the nature of the information the organization seeks to redact. We will consider both compliance and confidentiality needs as we develop application and audit requirements related to this provision.

Comment: A commenter requested that CMS require PACE and long term care services and support providers (such as skilled nursing facilities (SNFs) and assisted living residences (ALRs)) to create plans that deal with natural and other disasters.

Response: As discussed in this final rule, the requirements in this regulation that are applicable to Part D sponsors also apply to 1876 cost contracts and PACE organizations that provide qualified prescription drug coverage. On December 27, 2013, we proposed regulations on emergency preparedness requirements for Medicare and Medicaid participating providers and suppliers (78 FR 79082). The emergency preparedness requirements of that regulation would apply to PACE organizations in their capacity as providers and, as we noted earlier, the Part D proposed requirements apply to PACE organizations to the extent they function as Part D sponsors.

Both that proposed rule and this finalized Part C and D rule have the same goal of ensuring the least interruption to beneficiary health care and drugs as a result of disasters and emergencies by requiring entities to assess possible risks and lessen their impact through planning. However, this final rule applies to the entities providing coverage of the benefits (MA organizations and Part D sponsors), while the other rule, ''Medicare and Medicaid Programs; Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers'' would apply to entities directly providing the services. Specifically, this Part C and D rule applies to MA organizations and Part D sponsors to better ensure that beneficiaries enrolled in their plans have access in a timely manner to the Medicare covered items and services, supplemental benefits and prescription drugs. In contrast, the emergency preparedness rule would apply to both the Medicare and Medicaid programs and would require providers and suppliers to be adequately prepared to meet the direct health care needs of patients, residents, clients, and participants during disasters and emergencies.

Comment: Commenters expressed concerns that the proposed regulation did not take into account disparate circumstances. A commenter noted that MA organizations and Part D sponsors typically were located in the same area where members experiencing disasters or emergencies were living, while other commenters suggested the requirement would particularly burden smaller entities or entities with less experience that might, for example, need to contract with third parties to meet RTO obligations.

Response: We appreciate that different MA organizations and Part D sponsors will face different challenges during disasters and emergencies. However, we drafted broad areas of coverage to provide as much flexibility as possible to different entities. Given that emergencies and disasters are varied and unpredictable, we believe it would not be prudent for CMS to try and create different requirements based on different circumstances. We also believe that most of these concerns about costs and sufficient flexibility have been addressed through revisions or clarification of this proposed regulatory change.

Comment: A commenter stated that it was not aware of any reason that there should be different standards for the protection of Medicare beneficiaries during disasters than those generally applicable to the rest of the population.

Response: The treatment of individuals who are not Medicare beneficiaries is outside the scope of this regulation. However, we note that we are the steward of the Federal Trust Fund with direct authority over the Medicare program. Disasters, emergencies, and disruptions not only can limit beneficiary access to Medicare benefits, but they pose direct threats to the health of beneficiaries which in turn could create greater needs for health care services and drugs. Our core function is to ensure as best we can that beneficiaries are able to access their Medicare benefits; we believe the requirement that MA organizations and Part D sponsors establish business continuity plans that better enable them to deal with disasters is central to achieving this goal.

After consideration of the public comments received, we are finalizing our business continuity proposal with the following modifications as discussed and as follows:

- In §§ 422.504(o)(1) and 423.505(p)(1) we are replacing the phrase ''ensure the continuation of business operations during disruptions'' with the phrase ''ensure the restoration of business operations following disruptions''.
- In § 422.504(o)(1)(iv) we are replacing the phrase ''all employees, including contract staff'' with the phrase ''appropriate employees''.
- In § 423.505(p)(1)(iv), we are replacing the phrase ''all new and existing employees'' with the phrase ''appropriate employees''.
- In §§ 422.504(o)(2) and§ 423.505(p)(2), we are inserting the words ''plan to'' before the phrase ''restore essential functions'' in order that it reads ''plan to restore essential functions.'' We are also replacing the number ''24'' with ''72''.
- In § 422.504(o)(2)(i), we are replacing the phrase ''Benefit authorization (if not waived), adjudication, and processing of health care claims for services furnished at a hospital, clinic, provider office or other place of service'' with ''Benefit authorization (if not waived) for services to be immediately furnished at a hospital, clinic, provider office, or other place of service.''
- We are removing proposed paragraph (ii) of § 422.504(o)(2) (''Operation of an enrollee exceptions and appeals process including coverage determinations.'') and renumbering proposed paragraph (iii).

5. Efficient Dispensing in Long Term Care Facilities and Other Changes (§ 423.154)

We proposed changes to the rule requiring efficient dispensing to Medicare Part D enrollees in long term care (LTC) facilities. For background, section 3310 of the Affordable Care Act amended the Act to add a new paragraph (3) to section 1860D–4(c) of the Act. Section 1860D–4(c)(3) of the Act provides that the Secretary shall require Medicare Part D sponsors of prescription drug plans to utilize specific, uniform dispensing techniques, such as weekly, daily or automated dose dispensing, when dispensing covered Part D drugs to enrollees who reside in an LTC facility in order to reduce waste associated with 30-day fills. The section states that the techniques shall be determined by the Secretary in consultation with relevant stakeholders.

After extensive consultation with stakeholders, in the April 15, 2011 **Federal Register**, we published a final rule entitled ''Medicare Program; Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs for Contract Year 2012 and Other Changes'' (''April 15, 2011 final rule''), which governs the dispensing of prescription drugs in LTC facilities under Part D plans. In accordance with § 423.154, Part D sponsors generally must require their network pharmacies to dispense certain solid oral brand covered Part D drugs in quantities of 14 days or less, unless an exemption applies. As a clarification to the April 15, 2011 final rule, we proposed in the January 2014 proposed rule the following specific changes to the LTC short cycle dispensing requirements:

- Add a prohibition on payment arrangements that penalize the offering and adoption of more efficient LTC dispensing techniques by prorating dispensing fees based on days' supply or quantity dispensed, and a requirement to ensure that any difference in payment methodology among LTC pharmacies incentivizes more efficient dispensing techniques.
- Eliminate language that has been misinterpreted as requiring the proration of dispensing fees.
- Incorporate an additional waiver for LTC pharmacies using restock and reuse dispensing methodologies under certain conditions.
- Make a technical change to eliminate the requirement that Part D sponsors report on the nature and quantity of unused brand and generic drugs.

After providing a summary of the current LTC short cycle dispensing rule in the proposed rule, we addressed each proposed change in more detail.

a. Prohibition on Payment Arrangements That Penalize the Offering and Adoption of More Efficient LTC Dispensing Techniques (§ 423.154)

Our first proposed change was to add a paragraph to § 423.154 prohibiting payment arrangements that penalize the offering and adoption of more efficient LTC dispensing techniques by prorating dispensing fees based on days' supply or quantity dispensed, and a requirement to ensure that any difference in payment methodology among long-term care pharmacies incentivizes more efficient dispensing techniques. Certain dispensing fee payment arrangements, for example, some proration arrangements, penalize the offering and adoption of more efficient LTC dispensing. For instance, if a medication is discontinued before a month's supply has been dispensed, a pharmacy that dispenses the maximum amount of the medication at a time permitted under § 423.154 (for example, 14 days), collects more in dispensing fees than a pharmacy that utilizes dispensing techniques that result in less than maximum quantities being dispensed at a time. In other words, the least efficient pharmacy collects more in dispensing fees than a more efficient pharmacy.

In the proposed rule, we provided the following example of two pharmacies—one more efficient at dispensing than the other—to illustrate our concern: A monthly $4.00 dispensing fee for a 30-days' supply is prorated, and a medication is discontinued after 21 days. The first pharmacy dispenses 14-days' supply at a time and receives approximately $3.73 in total dispensing fees for a 28-days' supply ($0.1333 × 28), which results in 7 days' worth of medication waste. The second pharmacy dispenses 3-days' supply at a time and receives approximately $2.80 in dispensing fees for a 21-days' supply in total ($0.1333 × 21), which results in no medication waste.

We believe this example is contrary to the Congress' intent in enacting section 3310 of the Affordable Care Act, which was to reduce medication waste. In this example, the second pharmacy's more efficient dispensing techniques results in less medication waste, but the pharmacy itself receives less in dispensing fees than it would if it had dispensed in 14-day increments, which result in more medication waste. This approach creates a perverse incentive for LTC pharmacies to adopt the least efficient dispensing technique, if available, which is to dispense drugs in 14 days supplies. This encourages wasteful dispensing to the Part D program.

Given the clear intent of the Affordable Care Act to reduce wasteful dispensing in the LTC setting, we proposed to prohibit payment arrangements that penalize the offering and adoption of more efficient LTC dispensing techniques by adding a new requirement that would state a Part D sponsor must not, or must require its intermediary contracting organizations not to, penalize long term care facilities' choice of more efficient uniform dispensing techniques by prorating dispensing fees based on days' supply or quantity dispensed. We proposed that this requirement would also state that a sponsor or its intermediary contracting organizations must ensure that any difference in payment methodology among LTC pharmacies incentivizes more efficient dispensing techniques.

b. Misinterpretation of Language as Requiring the Proration of Dispensing Fees (§ 423.154)

Our second proposed change to § 423.154 was to eliminate paragraph (e), which we believe has caused confusion. Section 423.154(e) currently states that regardless of the number of incremental dispensing events, the total cost sharing for a Part D drug to which the dispensing requirements under this paragraph (a) apply must be no greater than the total cost sharing that would be imposed for such Part D drug if the requirements under paragraph (a) of this section did not apply. The purpose of this language was to ensure that sponsors did not assess multiple monthly copayments for each incremental dispensing event in LTCs. We believe misinterpretation of paragraph (e) may have prompted some sponsors to prorate dispensing fees in a way that penalizes the offering and adoption of more efficient LTC dispensing techniques, even though the current regulation does not address dispensing fees.

Moreover, effective January 1, 2014, the daily cost-sharing rate requirement in § 423.153(b)(4)(i) applies whenever a prescription is dispensed by a network pharmacy for less than a month's supply, unless the drug is excepted, regardless of the setting in which the drug is dispensed. In other words, the daily cost-sharing rate requirement applies to brand drugs dispensed in LTC facilities to the extent they must be dispensed in supplies less than 30 days under § 423.154, and to generic drugs, to the extent a sponsor voluntarily dispenses generic drugs in LTC facilities in supplies less than a month's supply. Consequently, the requirement of § 423.153(b)(4)(i) makes § 423.154(e) unnecessary, and we believe retaining both provisions could cause further confusion. For these reasons, we proposed to delete § 423.154(e).

c. Additional Waiver for LTC Pharmacies Using Restock and Reuse Dispensing Methodologies Under Certain Conditions (§ 423.154)

Our third proposed change to § 423.154 was to waive the short-cycle dispensing requirements for LTC pharmacies meeting certain conditions. Currently, § 423.154(c) waives the requirements for pharmacies when they dispense brand name Part D drugs to enrollees residing in intermediate care facilities for the mentally retarded and institutes for mental disease, as well as for I/T/U pharmacies. We have learned that some institutional pharmacies maintain custody of medications within the LTC facilities through operating a closed pharmacy within the facility, and as a result can ensure sufficient quality control over these medications to return all unused medications to stock for reuse that are eligible for return and reuse under applicable law. This has led us to believe there is another category of pharmacies, such as some on site pharmacies in veterans' homes, for which a waiver from the LTC short-cycle dispensing requirement may be appropriate, if they meet certain conditions that demonstrate that applying the 14-day dispensing requirements in these instances would not serve to reduce waste.

In light of this, we proposed to waive the requirements of § 423.154(a) for an LTC pharmacy that exclusively uses the dispensing technique of returning all unused medications to stock that can be restocked under applicable law for reuse and rebating full credit for the ingredient costs of the unused medication to the PDP sponsor. The proposed waiver also would require that for those drugs that cannot be returned for full credit and reuse under applicable law, such as controlled substances, the pharmacy uses a dispensing methodology that results in the delivery of no more than 14 days of a drug at a time. We proposed that the waiver would apply on a uniform basis to all similarly situated LTC pharmacies, but not to a pharmacy organization that is contracted to use this technique at some, but not all, of its pharmacies. Rather, the waiver would apply only to the qualifying pharmacies themselves. We proposed that we would not require the pharmacies to credit back any amount of the dispensing fee when the pharmacies return a drug to stock for reuse, since the level of effort for the pharmacies would not be expected to decrease. We stated that, if anything, the level of effort would be increased, since the pharmacies have to implement the appropriate internal controls for inspection and return to inventory of the unused medication.

We further solicited comments on our proposal that to qualify for the waiver, a pharmacy would have to dispense any drugs that cannot be restocked under applicable law, such as controlled substances, in no greater than 14-day supply increments. Our rationale in proposing this condition to the waiver is that we do not want the waiver to inadvertently result in large quantities of medications being dispensed to Part D enrollees serviced by the pharmacies that would qualify for the waiver because they cannot be restocked under applicable law.

d. Technical Change To Eliminate the Requirement That PDP Sponsors Report on the Nature and Quantity of Unused Brand and Generic Drugs (§ 423.154)

Finally, we proposed to make a technical change to § 423.154(a)(2), which requires Part D sponsors to collect and report information, in a form and manner specified by CMS, on the dispensing methodology used for each dispensing event described by paragraph (a)(1) of this section, as well as on the nature and quantity of unused brand and generic drugs dispensed by the pharmacy to enrollees residing in an LTC facility. This latter reporting requirement is waived for sponsors for drugs dispensed by pharmacies that dispense both brand and generic drugs in no greater than 7-day increments.

In a memorandum titled, ''Modifications to the Drug Data Processing System (DDPS) in Relation to Appropriate Dispensing of Prescription Drugs in Long Term Care Facilities,'' issued by CMS on August 3, 2012, we explained that we planned to use the PDE data in conjunction with other CMS data (such as MDS) to determine the extent to which 14 day or less dispensing to enrollees in LTC facilities reduces the amount of unused drugs in LTC. We did this to lessen the burden on sponsors that would be created by a separate reporting requirement. Therefore, it is no longer necessary to waive the reporting requirement for any Part D sponsor, because Part D sponsors comply with the requirement (in the form and manner we specified in the previously-referenced memorandum) via PDE submission. Thus, we proposed deleting the language in in § 423.154(a)(2) that appeared to require separate reporting, to eliminate any confusion.

We received the following comments on this proposal and our responses follow:

Comment: Numerous commenters support the proposal to add a prohibition on payment arrangements that penalize the offering and adoption of more efficient LTC dispensing techniques by prorating dispensing fees based on days' supply or quantity dispensed, and a requirement to ensure that any difference in payment methodology among long term care pharmacies incentivizes more efficient dispensing. Many of these comments in particular supported CMS' view that there is not a justifiable reason for proration of monthly dispensing fees since the cost of dispensing is not directly related to the quantity dispensed. These commenters asserted that proration of dispensing fees ignored

the clinical oversight and fixed costs for pharmacy professional services for each dispense. These commenters acknowledged that prorated professional fees have resulted in a perverse economic model that encourages pharmacies to dispense the maximum allowable quantity of drugs (for example, 14 days supplies) in each prescription drug event transaction.

Other commenters opposed this proposal, stating that it would increase costs by requiring a full dispensing fee with each dispensing event in an LTC facility, and that since the LTC pharmacies determine dispensing increments, this will incentivize them to select the system that provides the highest number of dispensing fees. These commenters also noted that the Affordable Care Act did not specify a new LTC dispensing fee structure.

A commenter provided an illustrative example of prorated monthly dispensing fees that may not penalize the offering and adoption of more efficient LTC dispensing techniques. Specifically, the example demonstrates how an increased dispensing fee with proration can create appropriate incentives to reduce waste and cost in LTC facilities. The example provided for a $10 base dispensing fee for a 30-day supply for a pharmacy with technology that dispenses in 7-day increments and a $4.00 base dispensing fee for a pharmacy that dispenses in 14-day increments. Under this scenario, the more efficient pharmacy would receive $2.31 for dispensing 7 days of medication ($10/30 = $0.33 × 7) and the less efficient pharmacy would receive $1.82 ($4/30 = $0.13 × 14) for dispensing 14 days of medication. This commenter urged us to allow for any dispensing structure where the daily dispensing fee encourages all pharmacies, regardless of their size or negotiation capabilities, to use the most efficient dispensing technologies.

Response: We thank the supportive commenters for their comments. With respect to the commenters that opposed the proposal, we note that the proposal did not require a full monthly dispensing fee with each dispensing event, or any specific dispensing fee or methodology for that matter. The intent of this rule is to prohibit dispensing fees that penalize the offering and adoption of more efficient LTC dispensing techniques by prorating dispensing fees based on days' supply or quantity dispensed. This rule also adds a requirement to ensure that any difference in payment methodology among long-term care pharmacies incentivizes more efficient dispensing techniques.

With respect to the one commenter that pointed out that certain prorated dispensing fees may not penalize the offering and adoption of more efficient LTC dispensing techniques in certain instances, we take no position at this time on whether specific dispensing fee arrangements would be compliant with this rule. We reiterate that this rule does not require a specific dispensing fee or methodology, but rather, prohibits payment arrangements that penalize the offering and adoption of more efficient LTC dispensing techniques by prorating dispensing fees based on days' supply or quantity dispensed. In addition, this rule requires that any difference in payment methodology among LTC pharmacies incentivizes more efficient dispensing techniques.

Comment: A commenter stated that because its data shows 80 percent of all LTC dispense claims are for generic medications, modifying dispensing fees will not truly affect the use of short-cycle methodology. This commenter requested that CMS provide any research demonstrating the increased utilization of short-cycle fill in dispensing in pharmacies whose dispensing fees did not change to a prorated fee. Alternatively, this commenter requested CMS' observations and supporting data demonstrating that a daily dispensing fee actively discourages pharmacies from short-cycle filling medications.

Response: We do not believe the research and data requested are necessary to finalizing this proposal. We believe it is self-evident that proration of the same monthly dispensing fee based on days' supply or quantity dispensed (which results in a type of daily dispensing fee or rate) penalizes more efficient pharmacies relative to less efficient ones—the more efficient pharmacy is reimbursed less per dispense because it dispenses in smaller increments. Moreover, that prorated dispensing fee decreases per dispense the more efficiently the pharmacy dispenses.

Comment: A commenter stated that CMS confuses prorated dispensing fees with daily dispensing fees that are not necessarily pro rata adjustments of otherwise applicable dispensing fees.

Response: Our prohibition of proration that penalizes more efficient dispensing would apply both to proration of a monthly dispensing fee amount and proration determined by setting a daily rate that is applied to the number of days dispensed. The intent is of our rule is to prohibit payment arrangements that penalize the offering and adoption of more efficient LTC dispensing techniques by prorating dispensing fees based on days' supply or quantity dispensed, and to require that any difference in payment methodology among LTC pharmacies incentivizes more efficient dispensing techniques.

Comment: A commenter stated that PBMs have very little leverage in negotiating cost effective strategies with LTC pharmacies on behalf of Part D sponsors, as the LTC landscape is controlled by three very large LTC pharmacy organizations that make up an estimated 80 percent of the market share, and that in many cases, only one of them is the provider of prescription medications in LTC facilities. This commenter further stated that these LTC pharmacy organizations dictated the contractual requirement to prorate dispensing fees, asserting that their member LTC pharmacies needed compensation for every prescription fill.

Response: This rule prohibits payment arrangements that penalize the offering and adoption of more efficient LTC dispensing techniques by prorating dispensing fees based on days' supply or quantity dispensed. For example, this rule prohibits payment arrangements that penalize LTC dispensing techniques of less than 14 days supplies of drugs at a time. This rule also requires that any difference in payment methodology among LTC pharmacies incentivizes more efficient dispensing techniques. For example, this rule requires that differences in payment methodologies among LTC pharmacies incentivize dispensing techniques of less than 14 days supplies of drugs at a time. If the prorated dispensing fees by days' supply or quantity dispensed do not penalize the offering of more efficient dispensing techniques by these LTC pharmacies, and any difference in payment methodology relative to other LTC pharmacies incentivizes more efficient dispensing techniques, then this regulatory provision is not implicated.

Comment: Some commenters asserted that our proposal was a violation of the non-interference clause and exceeded our delegated authority.

Response: We disagree. Section 1860D–4(c)(3) of the Act provides that the Secretary shall require Medicare Part D sponsors of prescription drug plans to utilize specific, uniform dispensing techniques, such as weekly, daily, or automated dose dispensing, when dispensing covered Part D drugs to enrollees who reside in a LTC facility in order to reduce waste associated with 30-day fills. Thus, the Congress gave the Secretary authority to regulate with respect to reducing waste of covered Part D drugs in LTC facilities. Moreover,

this requirement does not dictate any specific dispensing fee amounts or methodologies, but rather prohibits only those dispensing fees that penalize more efficient dispensing and requires that any difference in payment methodology among LTC pharmacies incentivizes more efficient dispensing techniques. For the reasons stated previously, we believe this is consistent with the statutory directive to reduce waste associated with 30-day fills in LTC facilities.

Comment: A commenter stated the regulatory text was vague.

Response: We disagree. The policy reflected in the preamble and regulatory text is clear—to prohibit the prorated LTC dispensing fees in the Part D market today that are financially penalizing more efficient LTC pharmacies. In addition, we believe the discussion in this preamble, with examples provided, makes clear how sponsors must not penalize more efficient dispensing techniques in LTC facilities by prorating dispensing fees based on days' supply or quantity dispensed and that any difference in payment methodologies among LTC pharmacies must incentivize more efficient dispensing techniques. We have deliberately struck a balance in drafting the regulatory text to be specific enough to accomplish the policy goal without being so specific as to dictate the particular dispensing fee arrangements that are permissible.

Comment: A commenter requested whether this new requirement applies to all payments to LTC pharmacies; whether it applies to all prescriptions in LTC facilities or only to those subject to the short-cycle dispensing methodology; and whether a Part D sponsor must prove to each LTC pharmacy how its payment methodology incentivizes more efficient dispensing techniques.

Response: The requirement in this final rule applies to payments to pharmacies related to the dispensing of Part D drugs to residents in LTC facilities, including those Part D drugs that are not subject to the short-cycle dispensing requirement. As noted previously, this rule does not address specific negotiations between Part D sponsors and pharmacies.

Comment: One commenter stated that the regulatory text was confusing and contained three negatives.

Response: We are moving the proposed language to § 423.154(a)(2) and (3) and revising the regulation text. We believe this will make the regulatory text less confusing. However, because we did not propose to waive this requirement with respect to pharmacies when they dispense Part D drugs to residents of intermediate care facilities for the mentally retarded (ICFs/IID) and institutes for mental disease (IMDs) and for I/T/U pharmacies, we are making conforming changes to § 423.154(c) to make clear that the requirements of paragraph (a)(2) and (3) are not waived for with respect to these pharmacies.

Comment: A commenter stated that it was unnecessary for CMS to memorialize the fact that the rule applies to contracting intermediaries in addition to Part D sponsors in the regulatory text.

Response: We agree. The reference to ''intermediary contracting organizations'' in the regulatory text is now unnecessary because we are moving the requirement to § 423.154(a)(2) and (3), as noted just previously.

Based on all the comments received, we are finalizing our proposal with the changes previously described in this section.

Comment: Some commenters supported the removal of the language in § 423,154(e) that CMS believes may have been misinterpreted as requiring the proration of dispensing fee. A few commenters opposed this proposal. One of these commenters that opposed this proposal stated that plans did not interpret the provision as requiring the proration of dispensing fees, but rather as permitting it.

Response: Based on the comments received, we are finalizing the removal of this language from the current regulatory text. As noted previously, this provision was intended to address cost sharing for short-cycle dispensing in LTC facilities, but the daily cost-sharing rate rule at § 423.153(b)(iv)(i) now addresses cost-sharing when less than a month's supply of a Part D drug is dispensed. Thus, this regulatory text is no longer necessary. Moreover, we believe the comments support our view that the language was confusing.

Comment: Several commenters supported CMS' proposal in principle for an additional waiver from the short-cycle dispensing requirements for certain LTC pharmacies that maintain custody of medications by operating a closed pharmacy within the facility, but these commenters expressed concerns about how the waiver would be implemented. Specifically, these commenters pointed out that there is no current transaction standard that accommodates transmitting a net quantity for payment following the acceptance of a returned medication applied against a quantity dispensed for ingredient cost credit, and that use of an existing transaction to accomplish this would violate HIPAA. These commenters stated that a new HIPAA standard transaction would be required to support a waiver based on return and reuse billing.

Response: In the proposed regulation, while we used an industry term of art ''restock and reuse,'' we did not intend to implicate a billing standard that does not exist. This term, as used in the industry, encompasses a billing system that modifies pharmacy claims as unused medications are returned to stock. We are aware of the current limitations of this particular system.

The type of pharmacy that would qualify for the waiver, as we described in the proposed rule, is an institutional, on-site, closed pharmacy, such as a pharmacy in a veteran's home, which maintains custody of medications within the LTC facility, such that all unused medications that are eligible under applicable law are restocked and reused. In other words, such a pharmacy has such quality control over medications in the LTC facility that it does not have to dispense in 14-day supplies or less in order to reduce waste. Such pharmacies may use post-consumption billing, a reverse and rebill system, or some other billing method to only charge a Part D sponsor for the medications that are actually used.

Given the misunderstanding of our proposed additional waiver from the LTC short-cycle dispensing rule, we are not finalizing it as this time. We will consider proposing the waiver again in future rulemaking.

Comment: We received no comment on our proposal to delete language in § 423.154(a)(2) to eliminate any confusion about that there is a separate reporting requirement.

Response: We are finalizing this deletion, except that we are redesignating the remaining language in (a)(2) as (a)(4) in light of the other changes previously described.

Comment: Some commenters requested a delay in the effective date of this requirement until 2016, asserting that the requirement will necessitate significant changes in adjudication and network contracting logic to accommodate the replacement of prorated dispensing fees with standard dispensing fees. One commenter requested clarification of the effective date of this requirement.

Response: The effective date of this requirement is January 1, 2016.

6. Medicare Coverage Gap Discount Program and Employer Group Waiver Plans (§ 423.2325)

Section 3301 of the Affordable Care Act, codified in section 1860D–43 and 1860D–14A of the Act, established the

Medicare Coverage Gap Discount Program (Discount Program), beginning in 2011. Under the Discount Program, manufacturer discounts are made available to applicable Medicare beneficiaries receiving applicable covered Part D drugs while in the coverage gap. Section 1860D–14A(c)(1)(A)(ii) of the Act requires the manufacturer discount to be provided to beneficiaries at the point-of-sale. Employer Group Waiver Plans (EGWPs) are customized employer-offered plans available exclusively to employer/union health plan Part D eligible retirees and/or their Part D eligible spouse and dependents. Section 423.458(c)(4) requires sponsors offering EGWPs to comply with all Part D requirements unless those requirements have been specifically waived or modified by CMS using our authority under section 1860D–22(b) of the Act. The Affordable Care Act did not exclude EGWP enrollees that otherwise meet the definition of an applicable beneficiary (as defined in § 423.100) from the Discount Program. Therefore, in order for an applicable drug to be covered by EGWPs, it must be covered under a manufacturer agreement, and the manufacturer must pay applicable discounts for applicable beneficiaries as invoiced.

Beginning in 2014, all EGWP benefits beyond the parameters of the defined standard benefit will be treated as non-Medicare Other Health Insurance (OHI) that wraps around Part D. We excluded supplemental coverage offered through EGWPs from the definition of Part D supplemental benefits in § 423.100 in our 2012 rulemaking. However, as discussed in section II.E.14. of this final rule, the change was erroneously not included in the CFR. Therefore, we are making a technical change to rectify that problem. The change with respect to EGWPs was made so that the discount amount could be consistently and reliably determined. This was necessary to ensure that we can determine that the discount is always calculated accurately since we do not collect information on all EGWP retiree benefit arrangements to determine actual supplemental benefits. Not only would collecting such information be impractical, but we also believe instituting a requirement to collect the specific information on all such benefits would be so burdensome as to hinder the design of, the offering of, or the enrollment in employer plans. Consequently, the discount calculation is based upon the Part D Defined Standard benefit for all EGWPs beginning in 2014. While we believed that our justification for excluding any supplemental benefits offered through EGWPs from Part D benefits clearly indicated that the basic EGWP Part D benefits would be limited to Defined Standard benefit because that is the only way we can determine that the discount is calculated accurately, we took the opportunity to propose this specific requirement in § 423.2325(h)(1) to remove any ambiguity.

Comment: Some commenters strongly urged CMS to revise the policy established in our April 2012 rule that considers EGWP plan supplemental benefits to be outside of Part D, and therefore OHI. These commenters stated that treating EGWP benefits as OHI is inconsistent with the statute as it does not, on its face appear to result in direct reductions in beneficiary cost sharing. They state that since many EGWP enrollees do not experience a coverage gap the discounts are not used to offset beneficiary spending in the gap which is the original statutory intent. A few commenters stated that the current policy has led employer groups to migrate from Retiree Drug Subsidy plans to EGWPs which is costly to the taxpayer.

Response: We did not propose any changes to our existing policy with respect to EGWP supplemental benefits, and we decline to do so now. For the reasons set forth in our April 2012 rulemaking, we believe our current regulation is consistent with the statute. The purpose of this final rule is solely to clarify that basic EGWP benefits are to be based upon the Defined Standard benefit.

After considering the comments received, we are finalizing the portion of the provision which proposed that Part D sponsors offering employer group waiver plans must provide applicable discounts to EGWP plans as determined consistent with the Defined Standard benefit, except we are making a technical change to clarify that applicable discounts are available only to applicable beneficiaries enrolled in the EGWPs. We are not finalizing the proposed requirement that Part D sponsors of EGWPs disclose to each employer group the projected and actual manufacturer discount payments under the Discount Program attributable to the employer group's enrollees, at least annually or upon request.

7. Transfer of TrOOP Between PDP Sponsors Due to Enrollment Changes During the Coverage Year (§ 423.464)

Sections 1860D–23 and 1860D–24 of the Act specify that requirements for Part D sponsor coordination of benefits with State Pharmaceutical Assistance Programs and other plans providing prescription drug coverage, including treatment of expenses incurred by these payers toward a beneficiary's out-of-pocket (TrOOP) threshold. Part D coordination of benefit requirements are codified at § 423.464, which defines ''other prescription drug coverage'' for COB purposes to include, among other entities, other Part D plans, and specifies Part D plan requirements for determining when an enrollee has satisfied the out-of-pocket threshold.

Related regulations at § 423.104(d), codifying the requirements in section 1860D–2(b) of the Act, require sponsors to track beneficiary TrOOP and gross covered drug costs and correctly apply these costs to the benefit limits to correctly position the beneficiary in the benefit and provide the catastrophic level of coverage at the appropriate time. When a beneficiary transfers enrollment between Part D plans during the coverage year, the enrollee's gross covered drug costs and TrOOP must be transferred between plans and applied by the subsequent plan in its administration of the Part D benefit. The process for a prior plan to report these TrOOP-related data and for the new plan of record to receive, upload, and use the data position the beneficiary in the correct phase of the benefit was initially manual.

In 2009, this process was replaced by an automated process for TrOOP-related data transfer. Our guidance released in 2008 (HPMS memorandum dated October 21, 2008 titled, ''Updated Part D Sponsor Automated TrOOP Balance Transfer Operational Guidance'') described sponsor implementation of the automated TrOOP balance transfer process and reiterated sponsor requirements for data reporting by the prior plan and use of the data for proper positioning of the beneficiary in the benefit by the current plan. We have continued to specify these requirements in subsequent updated versions of the guidance.

To ensure Part D benefits are correctly administered when a beneficiary transfers enrollment during the coverage year, we proposed to codify these requirements in federal regulations. Specifically, we proposed to amend § 423.464(f)(2) by adding a new paragraph (C) requiring Part D sponsors to—

- Report benefit accumulator data in real time in accordance with the procedures established by CMS;
- Accept in real-time data reported in accordance with CMS-established procedures by any prior plans in which the beneficiary was enrolled, or that paid claims on the beneficiary's behalf, during the coverage year; and

• Apply these costs promptly.

In our guidance on automated TrOOP balance transfer, we express our expectation that sponsors successfully transfer accumulator data for beneficiaries making enrollment changes during the coverage year in a timely manner 100 percent of the time. Although sponsors may be reporting and accepting these data in accordance with our expectations, we have been informed that some sponsors may not be promptly loading the data received into their systems so it is available for claims processing. As a result, the beneficiary's previously incurred costs and gross covered drug costs are not considered in the processing of claims received by the new plan sponsor soon after the enrollment change.

Comment: One commenter objected to the provision claiming it was vague and ill-defined and requested we include additional detail in lieu of deferring to sub-regulatory guidance.

Response: We disagree. The proposed regulatory text specifies the requirements for sponsors to report, accept and apply accumulator data. We believe the details of the transfer process are more appropriately addressed in guidance because they are procedural, and retaining them in guidance will preserve flexibility to adapt these procedures as the need arises. CMS and the industry developed the automated data transfer process in collaboration with National Council for Prescription Drug Programs (NCPDP) and have continued to work collaboratively to refine and improve the process. When a change in the transfer process is agreed upon and substantive requirements are unaffected, use of guidance permits us to issue updated instructions in a timely manner.

Comment: Three commenters expressed support for the provision.

Response: We appreciate the support for this provision and are adopting this provision as proposed with a minor change. That is, we are redesignating the current paragraph (B) in § 423.464(f)(2)(i)(B) as (C) and adding this provision as paragraph (B) to more logically sequence the requirements.

8. Expand Quality Improvement Program Regulations (§ 422.152)

Section 1852(e) of the Act requires MA organizations to have an ongoing quality improvement program for the purpose of improving the quality of care provided to enrollees.

We proposed revising paragraph (a) of § 422.152 in order to codify our recent expansion of the quality improvement program policies and revising paragraph (c) of § 422.152 to codify our recently expanded chronic care improvement program policies. The proposed revisions to these paragraphs more accurately reflect current quality care improvement program policies and requirements.

Additionally, paragraph (g) of § 422.152 lists quality improvement program requirements that are specific to special needs plans (SNPs). We proposed revising paragraph (g) to clarify that the requirements listed there are in addition to program requirements listed in paragraphs (a) and (f) of § 422.152 and are not instead of the regular quality improvement program requirements.

Finally, we proposed to delete paragraph (h)(2) of § 422.152 as it pertains to contract year 2010 and is no longer relevant.

We received the following comments and our responses are as follows:

Comment: We received several comments that supported § 422.152 overall and CMS efforts to implement policies that ensure high quality health care for enrollees.

Response: We thank the commenters for their support.

Comment: One commenter requested clarification as to what exactly has changed under § 422.152(c), ''Chronic care improvement program requirements,'' as it appears to expand only one requirement and reorder the others.

Response: Our proposal, and the finalized rule here, revises paragraphs (c)(1)(ii) to add a requirement for the MA organization to evaluate participant outcomes (such as changes in health status), and add paragraphs (c)(1)(iii), (c)(1)(iv), and (c)(2). Paragraph (c)(1)(iii) requires performance assessments that use quality indicators that are objective, clearly and unambiguously defined, and based on current clinical knowledge or research, and (c)(1)(iv) requires systematic and ongoing follow-up on the effects of the chronic care improvement program. Finally, new paragraph (c)(2) requires that the organization report to CMS on the results of each chronic care program. The proposed changes also included reorganization of the section to parallel requirements in paragraph (d), ''Quality improvement projects.''

Comment: One commenter requested whether recent changes to the SNP Model of Care (MOC) requirements would be the vehicle for evaluating compliance in relation to the effectiveness of a plan's Model of Care.

Response: This comment is outside the scope of the proposed changes to this provision because we did not propose, and are not finalizing in this rule, any changes to the SNP MOC requirements. Information about the MOC and associated requirements can be found in Chapter 5 of the Medicare Managed Care Manual.

Comment: One commenter requested clarification on the additional quality improvement program requirements for SNP plans.

Comment: The changes made to this provision do not create any new quality improvement program requirements for SNPs. The changes are to clarify the requirement that SNPs must comply with the requirements under paragraph (g) as well as those in paragraphs (a) through (f). The SNP-specific requirements in paragraph (g) do not replace the requirements in paragraphs (a) through (f), which apply to all plans, including SNPs.

Comment: A commenter requested whether Quality Improvement Project and Chronic Care Improvement Program results will be included in Star Rating measurements in the near future.

Response: This comment is outside the scope of the proposed changes to this provision as we did not propose, and are not finalizing in this rule, any Star Rating measures in connection with the quality improvement program requirement.

Comment: A commenter expressed opposition to expanded quality improvement requirements as a whole because MA organizations respond to such requirements by setting unrealistic targets for physicians. The commenter added that compliance must often be at 100 percent for a physician to qualify for a payment incentive.

Response: Our proposal codifies our recent expansion of the quality improvement program policies and revises paragraph (c) of § 422.152 to codify our recently expanded chronic care improvement program policies. The proposed revisions to these paragraphs more accurately reflect current quality care improvement program policies and requirements that are already in practice. While we understand the commenter's concern, we do not agree that codifying requirements that are already in practice will place any further burden on MA organizations and thus tangentially increase the burden on physicians. Additionally, while we understand that our recent expansion of our quality improvement program policies may have impacted MA organizations and, in turn, providers, the requirements do not specify any provider requirements or address payment incentives of any type. MA organizations and providers remain free to contract and make agreements on

these topics without CMS interference, thus MA organizations have flexibility when shaping their provider processes, policies, and overall framework.

Comment: A commenter stated that CMS's guidance with respect to Quality Improvement Projects and Chronic Care Improvement Programs for SNP plans has been unclear.

Response: Our proposal, and this final rule, revises paragraph (g) to clarify that the requirements listed there are in addition to program requirements listed in paragraphs (a) and (f) of § 422.152 and are not in lieu of the quality improvement program requirements presented in paragraphs (a) and (f). We believe the revisions to the regulation clarify that Quality Improvement Project and Chronic Care Improvement Program requirements are the same for SNP and non-SNP plans.

After consideration of the public comments received, we are finalizing the proposed codification and clarification of our Quality Improvement Program regulation at § 422.152 without modification.

B. Improving Payment Accuracy

1. Determination of Payments (§ 423.329)

In the January 2014 proposed rule, we proposed a technical change to § 423.329(d) to correctly describe the low-income cost-sharing subsidy payment amount as it is intended by statute and has been implemented and described in interpretive guidance by CMS. That amount had been defined in the regulation as the amount described in § 423.782. However, § 423.782 refers to the cost sharing paid by the beneficiary, not the cost-sharing subsidy paid on behalf of the low-income subsidy-eligible individual. The low-income cost-sharing subsidy amount is correctly described in Chapter 13 of our Medicare Prescription Drug Benefit Manual, Premium and Cost Sharing Subsidies for Low Income Individuals ((Rev. 13, 07–29–11), at *http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/Chapter13.pdf*). As we stated in the proposed rule, under the basic benefit defined at § 423.100, the low-income cost-sharing subsidy payment amount is the difference between the Part D cost sharing for a non-LIS beneficiary under the Part D plan and the statutory cost-sharing for the LIS-eligible beneficiary. Under an enhanced alternative plan described at § 423.104(f), the cost-sharing subsidy applies to the beneficiary liability after the plan's supplemental benefit is applied. We proposed to amend § 423.329(d) consistent with this guidance.

We also explained in our proposed rule that pursuant to § 423.2305, any coverage or financial assistance other than basic prescription drug coverage, as defined in § 423.100, offered by an employer group health or waiver plan is considered ''other health or prescription drug coverage.'' This definition applied to all of Medicare Part D. (See the April 12, 2012 final rule titled ''Medicare Program; Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs for Contract Year 2013 and Other Changes'' (77 FR 22082)). Therefore, the subsidy amount received by an employer group health or waiver plan is the subsidy amount received by a Part D plan offering defined standard coverage, as defined in § 423.100.

Based on the preceding, we proposed to amend § 423.329(d) by deleting the reference to §§ 423.782 and amending 423.329(d) to define the low-income cost-sharing subsidy payment amount on behalf of a low-income subsidy-eligible individual enrolled in a Part D plan for a coverage year as the difference between the cost sharing for a non low-income subsidy eligible beneficiary under the Part D plan and the statutory cost sharing for a low-income subsidy-eligible beneficiary.

In order to clarify that enhanced alternative benefits apply prior to determining the low-income cost-sharing subsidy payment amount, we clarify in this preamble and in the final regulation text that the low-income cost-sharing subsidy payment amount is the difference between the cost sharing (not the ''Part D cost sharing,'' as proposed) for a non-LIS beneficiary under the Part D plan and the statutory cost sharing for the LIS-eligible beneficiary.

We received no comments on this proposal and are finalizing with a minor modification, as discussed previously.

2. Reopening (§ 423.346)

We proposed to amend the reopening provisions such that we may perform one reopening within 5 years after the date of the notice of the initial payment determination to the Part D sponsors. We also proposed to amend the provision to accommodate reopening the Coverage Gap Discount Reconciliation described at § 423.2320(b).

As we stated in the proposed rule, we had originally patterned the reopening provisions after the Medicare claims reopening regulations found in part 405, but now with a better understanding of the need for reopening a payment determination, we proposed to modify our regulation at § 423.346 to align with our experience. We stated that our experience indicates to us that we will likely have to perform a reopening of the initial payment determination for every contract year, and we proposed to remove the current timeframes for a reopening described in § 423.346(a)(1) through (a)(3), remove paragraph (b) describing ''good cause'' referred to in paragraph (a)(2), modify paragraph (c) to eliminate the reference to ''good cause,'' and amend paragraph (a) such that CMS may reopen one time within 5-years of notice of the initial payment determination.

As stated in the proposed rule, we believe that data stability will occur within 5 years of the notice of the initial payment determination. Within 5-years of the notice of the initial payment determination, additional prescription drug event (PDE) data or PDE adjustments associated with coordination of benefits will be submitted by Part D sponsors consistent with the timeframe described at § 423.466(b). We know that audits and other post reconciliation oversight activity often take place more than 5-years from notice of the initial payment determination. However, in light of the overpayment provision at section 6402(a) of the Affordable Care Act, which established section 1128J(d) of the Act and that we proposed to codify at § 423.360, we stated that we do not believe that it is necessary to reopen a payment reconciliation after that 5-year period, and that we believe it is not necessary to reopen a reconsidered payment determination. Therefore, we proposed to amend § 423.346(a) such that we will only reopen the initial payment determination and will not reopen a reconsidered payment determination.

With respect to determining whether to reopen a contract year, we stated that we will consider a number of issues, including, but not limited to, whether the contract has terminated and received a final settlement. We stated that we will not approve a request to reopen for a contract that has terminated and received a final settlement. We also stated that when we performed a reopening on our own initiative, contracts that have been terminated and settled will not be included in the reopening.

In addition, we proposed to establish a reopening provision for the Coverage Gap Discount Reconciliation for the same reasons and under the same authority that we established a reopening provision for the Part D payment reconciliation process described in our January 28, 2005 final

rule titled, ''Medicare Program; Medicare Prescription Drug Benefit'' (70 FR 4316). We noted that in a Health Plan Management System (HPMS) memorandum dated April 30, 2010, we stated that the final reconciled discount program payments are subject to the reopening provision in § 423.346. Due to the invoicing process that continues to occur after the reconciliation process, we do not anticipate the need to reopen the Coverage Gap Discount Reconciliation. However, we want to leave open the option to reopen if unforeseen events result in underpayments or overpayments to Part D sponsors. Therefore, we proposed to amend § 423.346 to accommodate reopening a Coverage Gap Discount Reconciliation.

Based on the preceding, we proposed to revise § 423.346 by removing the phrase ''or reconsidered'' from paragraph (a), amending paragraph (a) to account for the proposed timing of the Part D reopening, removing paragraphs (a)(1) through (3) and (b)(1) through (3); adding a new paragraph (b) to accommodate a Coverage Gap Discount Reconciliation reopening; and revising paragraph (c) to eliminate the reference to ''good cause.''

We received the following comments and our responses follow:

Comment: A commenter stated that the past 6 years indicate that unforeseen issues arise and require multiple reopenings to address them properly. A commenter recommended that CMS relax the proposed regulation and not unnecessarily restrict CMS's ability to conduct more than one reopening. A commenter supported the goal of one reopening per contract year, but recommended that CMS set a threshold, such as a dollar amount, to restrict reopenings while preserving an appropriate amount of flexibility in the regulation to accommodate circumstances with a degree of materiality.

Response: We agree with the commenter that multiple reopenings may be necessary. We know from experience that there are unforeseen circumstances that require us to do multiple global or targeted reopenings for a contract year. Target reopenings include reopening for a specific plan type (for example, PACE organizations) or for specific contracts or parent organizations. For this reason and also due to potential conflicts between the 5-year time frame of this proposed provision and the 6-year look-back period associated with the overpayment provision recently codified at § 423.360 (see 79 FR 29847), we are not finalizing the proposal to reopen one time within 5 years after the date of the notice of the initial determination to the Part D sponsors.

Our proposal to do one reopening within 5 years after the date of the notice of the initial determination may create difficulties for Part D sponsors to return overpayments that they identify and are required to report and return under § 423.360. Section 423.360 creates a 6-year look-back period at § 423.360(f). In accordance with § 423.360(f), a Part D sponsor must report and return any overpayment identified within the 6 most recent completed payment years. In our May 23, 2014 final rule, (79 FR 29843), we stated that CMS would recover plan-identified overpayment amounts through routine processing. For Part D, that means that if an overpayment is discovered, the Part D sponsor may fulfill its obligation to return the overpayment by requesting a reopening and submitting corrected data prior to CMS conducting the reopening. (For more information, see 79 FR 29923). To the extent possible, we want to allow for overpayments to be recovered through routine payment processes through the entire 6-year look-back period. The decision not to finalize our proposal to conduct one reopening within a 5-year period gives the Part D sponsor more flexibility to return overpayments and CMS more flexibility to collect overpayments through routine payment processes. Therefore, we are not finalizing the proposed provision that CMS will reopen one time within 5 years after the date of the notice of the initial determination to the Part D sponsors.

We note that we agree with the commenter that making the decision whether to reopen could be based on a dollar amount threshold. We currently consider several factors, including dollar amount, to determine whether to do a reopening. However, the decision of whether or not to do a reopening beyond the initial global reopening will be decided based on factors specific to the circumstance. For that reason, we will not codify a threshold or any other list of factors that would give rise to multiple reopenings.

Comment: A few commenters disagreed with our approach to do one global reopening. A commenter stated that unfocused reopenings would place a great burden on Part D sponsors, particularly when looking back as much as 5 years, and recommended that the current rule, requiring ''good cause'' for a reopening after 1 year after the final payment determination, remain in place. A commenter also considered the possibility of extending the timeframe beyond the current 4 years to 5 years for reopening with cause.

Response: Although we are not finalizing the proposed provision that we will reopen one time within 5 years after the date of the notice of the initial determination to the Part D sponsors, we disagree with the commenter's statement that unfocused reopenings will place a great burden on Part D sponsors. We conduct reopenings after we see stability in the PDE and DIR data. We track the number of PDEs that we receive for each contract year on a weekly basis. We know that the Part D sponsors and their contracted pharmacy benefit managers (PBMs) submit significant amounts of data after the Part D payment reconciliation cut-off date. The data continues to be submitted well after 1 year of the notice of the initial payment determination. Given the volume of new data that we receive after the notice of the initial payment determination, we believe that it is necessary to conduct at least 1 global reopening for every contract year in order to accurately reconcile the prospective payment made to Part D sponsors with the corresponding actual costs reported by the Part D sponsor on the PDEs.

In addition, and subsequent to our decision not to finalize the proposal that CMS perform one reopening within 5 year of the notice of the initial payment determination, we are not finalizing our proposal to remove the current timeframes for a reopening described in § 423.346 (a)(1) through (a)(3), remove paragraph (b) describing good cause referred to in paragraph (a)(2), or modify paragraph (c) to eliminate the reference to ''good cause.'' In other words, Part D plan payment reopenings will continue to be conducted as described at the current regulation at § 423.346.

Comment: A commenter stated that experience would suggest that over the years since the Part D program's inception, we have all improved in our efforts at the reconciliation and reopening of the Part D financial books, and therefore, encouraged CMS to enforce a shorter reopening timeframe after plan year initial closure. Specifically, the commenter recommended that CMS decrease the amount of time that plan years remain not finally reconciled to 4 years, not 5 years. This commenter encouraged a shorter time frame than 5 years, because from financial and compliance perspectives, this commenter thought that it would be beneficial to have a true final ''closure'' of the plan year earlier rather than later, to reduce uncertainty and risk.

Response: We agree with the commenter that experience suggests that we have all improved our efforts at reconciliations and reopenings. We are also sympathetic to the Part D sponsors' desires to ''close'' a plan year. However, we are not finalizing the proposal that CMS will reopen one time within 5 years after the date of the notice of the initial determination to the Part D sponsors. As previously stated, we believe that the proposal, if finalized, may create difficulties for Part D sponsors to return overpayments that they identify and are required to report and return under § 423.360.

Comment: A commenter requested that CMS consider setting a time period for when global reopenings occur, so that the industry has some clarity and predictability around timing of the reopenings. This commenter thought that knowing when a reopening is expected would make planning for Part D sponsors and CMS much easier and more efficient.

Response: Although we are not finalizing the proposal to reopen one time within 5 years after the date of the notice of the initial payment determination to the Part D sponsors, we agree with the commenter that setting a time period for when global reopenings occur would provide clarity and predictability around timing of the reopenings. As our experience and efficiencies improve, we expect that the reopenings will fall into a predictable, yearly schedule. Based upon recent historical experience, we anticipate beginning the global reopening process for a benefit year 4 years after releasing the initial reconciliation reports. We, at our discretion, may conduct reopenings after this time to rectify overpayments or unexpected issues resulting from the initial reopening.

After consideration of the public comments we received, we are not finalizing the proposal that we will reopen one time within 5 years after the date of the notice of the initial payment determination to the Part D sponsors. Consequently, we are not finalizing our proposal to remove the current timeframes for a reopening described in § 423.346 (a)(1) through (a)(3), remove paragraphs (b) describing good cause referred to in paragraph (a)(2), or modify paragraph (c) to eliminate the reference to ''good cause.''

We did not receive specific comments on our proposal to modify § 423.346 to accommodate the Coverage Gap Discount Reconciliation. We proposed that, similar to the Part D plan payment reopening, the reopening for the Coverage Gap Discount would be conducted one time in a 5-year period. For the same reasons previously stated for the Part D plan payment reopening, we are not finalizing that the Coverage Gap Discount reopening be conducted once in a 5-year period. However, consistent with that proposal, we are incorporating the Coverage Gap Discount reopening into the reopening process described at § 423.346. Therefore, we finalize the Coverage Gap Discount Reconciliation reopening by modifying § 423.346(a) by adding the phrase ''or the Coverage Gap Discount Reconciliation (as described at § 423.2320(b))'' to the end of the introductory paragraph.

3. Payment Appeals (§ 423.350)

In our proposed rule, we proposed to revise § 423.350 to accommodate a Coverage Gap Discount Reconciliation appeals process under the same authority with which we established the Part D payment appeals process under section 1860D–15(d)(1) of the Act. Consistent with the Part D payment appeals process currently described at § 423.350, the proposed changes establish an appeals process where the final reconciliation of the interim Coverage Gap Discount Program (CGDP) payments may be subject to appeal. Consistent with the Part D payment appeals process, we also proposed to amend § 423.350(a)(2) to include information that is submitted and reconciled under § 423.2320(b) is final and may not be appealed nor may the appeals process be used to submit new information after the submission of information necessary to determine retroactive adjustments and reconciliations. Also consistent with the Part D payment appeals process, we proposed that the request for a reconsideration of the Coverage Gap Discount Reconciliation must be filed within 15 days from the date of the final payment, which is the date of the final reconciled payment made under § 423.2320(b).

Based on the preceding, we proposed to revise § 423.350 by adding a new paragraph (a)(1)(v) to allow for an appeal of a reconciled coverage gap payment under § 423.2320(b), by revising paragraph (a)(2) to indicate that the payment information submitted to CMS and reconciled under § 423.2320(b) is final and may not be appealed, and by adding a new paragraph (b)(1)(iv) to define the timeframe for appealing the final reconciled payment under § 423.2320(b).

We received the following comment and our response follows:

Comment: A few commenters requested that CMS extend the proposed 15-day deadline to file a request for reconsideration to 30 days due to the complexity of the CGDP. A commenter noted that 30 days would be more consistent with the existing plan-to-plan process. Another commenter stated that the15-day deadline would result in more ''defensive'' appeal from plans attempting to protect their interest in payments prior to the expiration of the appeal period, even where the subject plan may not yet, at this time of appeal, conclude that any payment discrepancies were in fact the result of methodological errors. A commenter believed that the proposed 15-day deadline would increase the administrative burden for CMS in processing unnecessary appeals and impair the efficient use of plan resources, which raises overall plan administrative costs.

Response: We decline to modify § 423.350(b)(1) to extend the proposed 15-day deadline to file a request for reconsideration to 30 days for the CGDP. We believe that some commenters may think that the appeals process under § 423.350 is broader than it actually is. Section 423.350 describes the appeals process for the Part D payment reconciliation and, as we proposed, the Coverage Gap Discount Reconciliation. An appeal can be filed if a Part D sponsor believes that CMS did not correctly apply its stated payment methodology. An appeal for any other reason will be dismissed. If a sponsor identifies a data discrepancy, the sponsor would not file an appeal but would file a reopening request under § 423.346.

The Part D sponsors are in possession of the same data CMS uses to determine the Coverage Gap Discount Reconciliation. The Part D sponsors will have the data in advance of the reconciliation and can validate the data prior to the reconciliation. Therefore, we believe that the proposed 15-day deadline is an adequate time for a Part D sponsor to determine whether CMS has correctly applied its stated payment methodology and, if necessary, file a request for reconsideration.

After consideration of the public comments we received, we are finalizing § 423.350 as proposed.

4. Payment Processes for Part D Sponsors (§ 423.2320)

In our proposed rule, we proposed to amend § 423.2320 such that we will assume financial liability for the applicable discount by covering the costs of the quarterly invoices that go unpaid by a bankrupt manufacturer at the time of the Coverage Gap Discount Reconciliation described at

§ 423.2320(b). This will ensure that the Part D sponsors have the funds available to advance the gap discounts at the point of sale, as required under section 1860D–14A(c)(1)(A)(ii) of the Act. We also stated that we would file a proof of claim with the bankruptcy court to recover costs from the bankrupt manufacturer. We proposed that we would implement our policy by adjusting the Coverage Gap Discount Reconciliation for manufacturer discount amounts as they are reported on PDEs submitted by the submission deadline for the Part D reconciliation.

Based on the preceding, we proposed to add a new paragraph (c) to § 423.2320 to describe a process for accounting for quarterly invoiced amounts that go unpaid by a bankrupt manufacturer.

We received the following comment and our response follows:

Comment: Commenters strongly supported our proposal. One commenter requested that CMS expand upon the section to include scenarios other than bankruptcy.

Response: We appreciate the support expressed for our proposal. However, we will not be expanding § 423.2320(c) to include scenarios other than bankruptcy. We will cover the costs of unpaid quarterly invoices only in the event that a manufacturer becomes bankrupt and fails to pay the invoices. As stated in the proposed rule, if a manufacturer becomes bankrupt, we are concerned that a court will modify or reduce the amount of the civil money penalties (CMPs), rendering the CMPs ineffective for covering the cost of the invoices and leaving the Part D sponsor in the position of having to cover the costs of the gap discount. In all other scenarios, CMPs, described at § 423.2340, will cover the cost of the unpaid invoices.

In light of the comment that we received recommending that we expand our proposal to include scenarios other than bankruptcy, we clarify that this provision will apply only to adjust for quarterly invoices that go unpaid after the manufacturer has declared bankruptcy. As previously stated, in all other cases, CMPs will cover the costs of unpaid quarterly invoices.

Also, consistent with our proposal to adjust the Coverage Gap Discount Reconciliation amount of each of the affected Part D sponsors to account for the total unpaid quarterly invoiced amount owed to each of the Part D sponsors in the contract year being reconciled, we clarify in the regulation that we will only adjust the Coverage Gap Discount Reconciliation amount for unpaid quarterly invoices used for that particular Coverage Gap Reconciliation. Use of a particular set of quarterly invoices in a Coverage Gap Discount Reconciliation is consistent with our current process, and we are not modifying that process for the purposes of this provision. Therefore, we clarify that we will not adjust the Coverage Gap Reconciliation amount for unpaid quarterly invoices that are not specifically used in that contract year's Coverage Gap Reconciliation.

After consideration of the public comments we received, we are finalizing § 423.2320(c) as proposed, with the minor clarifications discussed.

5. Risk Adjustment Data Requirements (§ 422.310)

In addition to the provisions addressed in the May 23, 2014 final rule (79 FR 29847),[8] we proposed to align § 422.310 regarding submission of risk adjustment data with § 422.326 by making a change in paragraph (g); specifically, we proposed the deletion of the January 31 deadline in paragraph (g)(2)(ii) and replacing it with the statement that CMS will announce the deadline by which final risk adjustment data must be submitted to CMS or its contractor. This would allow the risk adjustment data submission deadline to also function as the Part C applicable reconciliation date for purposes of § 422.326 on overpayment rules because § 422.326(a) refers to the annual final deadline for risk adjustment data submission as a date ''announced by CMS each year.''

In response to the January 10, 2014 proposed rule, we received approximately six pieces of correspondence from organizations and individuals regarding this specific proposal to replace the January 31 deadline with a date announced annually by CMS. We received the following public comments and our responses follow.

Comment: A few commenters supported CMS' proposal to remove the current date of January 31 as the annual final risk adjustment data submission deadline and replace it with the provision that CMS will announce the deadline annually, with the proviso that CMS' timing of this annual deadline always allow sufficient opportunity for organizations to make final data submissions. Several other commenters stated their concern about this proposed change in deadline, including a concern that CMS might announce a deadline earlier than January 31 in some years. These commenters requested that CMS clarify that the annual deadline would never be before January 31, and a few commenters suggested that the regulation state that the deadline is January 31 but may be extended. Finally, a few commenters requested that CMS not change the January 31 date to a floating date, in order to allow operational stability.

Response: Our goal for eliminating January 31 as the final risk adjustment data submission deadline was to align this deadline at § 422.310(g)(2)(ii) with the overpayment provisions in § 422.326, so that the final risk adjustment data submission deadline would also function as the Part C applicable reconciliation date set forth in the overpayment provisions. As noted in the proposed rule, in order to align with the overpayment provisions, each year we expect to announce a date that would accommodate the current subregulatory guidance that MA organizations review the monthly enrollment and payment reports they receive from CMS within 45 days of the availability of the reports. We make these reports available to MA organizations each month according to an operational schedule that we release each year. Therefore, we expect to announce a final risk adjustment data submission deadline that falls on or just after the conclusion of this 45-day period for the January payment, which would be about 6 weeks after the end of the payment year, and no earlier than the current January 31 deadline.

We do not expect the date of the annual final risk adjustment data submission deadline to vary much from year to year but we believe that providing flexibility in the regulation text is necessary to accommodate the operational routines of our systems.

In response to comments, we are finalizing our provision at § 422.310(g)(ii) with modification, stating that the final risk adjustment data submission deadline will be announced by CMS each year and will be no earlier than January 31.

C. Strengthening Beneficiary Protections

1. MA–PD Coordination Requirements for Drugs Covered Under Parts A, B, and D (§ 422.112)

Under § 422.112(b) of the MA program regulations, coordinated care plans must ensure continuity of care and integration of services through arrangements with contracted providers. We believe that an important aspect of

[8] We proposed three amendments to § 422.310 in our January 10, 2014 proposed rule. In the May 23, 2014 final rule, we finalized one proposal, stated that we would not finalize the second proposal, and would finalize the third proposal at a later time. (See the May 23, 2014 final rule (79 FR 29848, 29925, and 29926). The third proposal is addressed in this final rule.

this coordination is ensuring that all needed services, including drug therapies, are provided in a timely manner. Certain drug classes, including certain infusion agents, oral anticancer therapies, oral anti-emetics, immunosuppressants, and injectables, may be covered by Part D only when coverage under Parts A or B is not available. Because coverage of these drugs cannot generally be determined based solely on the drug, plan formularies often apply prior authorization criteria before claims can be paid at the point-of-sale (POS). Additionally, when an MA–PD plan issues an adverse Part D coverage determination because they have determined the drug is covered under Parts A or B, we expect MA–PD plans to ensure the drug is provided under the Parts A and B basic benefit.

In the January 2014 proposed rule, we proposed to add a new paragraph (b)(7)(i) to § 422.112 to require MA–PDs to establish and maintain a process to ensure that appropriate payment is assigned at the POS. In the preamble, we characterized this as a proposal to require MA–PDs to establish adequate messaging and processing standards with network pharmacies to achieve this goal.

We also proposed to add a new paragraph (b)(7)(ii) to § 422.112 to require that MA–PD plans issue the determination and authorize or provide the benefit under the applicable part (A, B or D)—which would require the MA–PD plan to proactively coordinate their enrollees' prescription drug coverage under Parts A, B and D—in order to ensure that enrollees receive Medicare covered prescription drugs as expeditiously as the enrollee's health condition requires. We stated in the preamble that if a denial under Part D is based on the existence of coverage under Parts A or B, the MA–PD plan should authorize or provide the drug under that other benefit without requiring the enrollee to make a subsequent request for coverage under that other benefit. Such determinations about the coverage of the drug would have to be provided in accordance with part 422, subpart M and part 423, subpart M, when a party requests a coverage determination.

We received the following comments on this proposal and our responses follow:

Comment: Beneficiary advocacy groups, some health plans, and pharmacy groups expressed their support for our proposal to strengthen coordination of benefit requirements applicable to MA–PD plans. Those commenters believe that requiring more appropriate messaging at the POS would decrease enrollees' confusion and serve to improve coordination of benefits.

One commenter urged CMS to adopt a policy to treat presentation of a prescription at the pharmacy counter by an enrollee as a request for a Part D coverage determination and the response from the plan as an initial coverage determination, giving the enrollee access to the appeals process. The commenter stated it is especially important for claims rejected at the POS under Part D because coverage may be available under Part A or Part B from the same MA entity, to be treated as a request for a coverage determination to avoid delays in access.

Another commenter stated that CMS' longstanding policy that presentation of a prescription at the pharmacy counter is not considered a request for a coverage determination may seem like CMS is requiring the enrollee to request an initial coverage determination twice, contrary to our statement in the proposed rule that enrollees should not have to make an initial request more than once. Furthermore, the comment states that many, if not most, plans do not choose to treat presentation of a prescription as a request for a coverage determination because the pharmacy is not a representative of the plan trained to accept such requests on the plan's behalf, including collecting all the necessary information from the enrollee, conveying it to the plan within the required timeframe, and documenting its activities in this regard.

Response: We appreciate the commenters' support for our proposal, but would like to clarify that we are not requiring MA–PDs to pay at the POS for all drugs that might be covered under Parts A, B or D in all circumstances, nor are we requiring plans to treat a POS claim transaction as a request for a coverage determination. As we have stated since the inception of the Part D program, neither the presentation of a prescription at the pharmacy, nor a POS claim transaction constitutes a coverage determination or a request for a coverage determination by the plan. If a rejected claim cannot be resolved at the POS, the Part D plan is required to transmit a code to the network pharmacy instructing the pharmacy to provide the enrollee with the standardized pharmacy notice that advises the enrollee of the right to request a coverage determination from the plan. A coverage determination request must be made directly to the Part D plan by the enrollee, the enrollee's representative, or the prescriber. Pharmacy staff does not have all of the information necessary to make a coverage determination on behalf of the plan.

Comment: A commenter requested that CMS clarify that it does not prevent pharmacies from accessing readily available information to assist with appropriate payment determinations at the POS.

Response: We would like to clarify that we do not prohibit pharmacies from using or transmitting to the MA–PD plan readily available information for purposes of determining appropriate payment at POS. This final rule does not change the guidance contained at section 20.2.2 of Chapter 6 of the Medicare Prescription Drug Benefit Manual, (Rev 10, 2–19–10), with respect to readily available information accessed by the pharmacy. The MA–PD plan will have met appropriate due diligence standards under Part D and the regulations implemented via this final rule without further contacting a physician if necessary and sufficient information is provided on the prescription, and the contracted pharmacy is able to communicate this information to the sponsor to assist in assigning appropriate payment at the POS.

Comment: A few commenters requested that CMS extend this proposal to out-of-network pharmacies.

Response: We disagree with these commenters. Plans do not have an established relationship with out of network pharmacies and, therefore, applying this proposal to them would be impractical.

Comment: Most commenters expressed strong support regarding CMS' proposal to coordinate Parts A, B, and D drug coverage during the coverage determination process.

Response: We thank commenters for their support. We will continue to work with stakeholders to explore program enhancements that may be more uniquely suited for plans that offer both Parts A, B and D benefits. We are exploring the possibility for future subregulatory guidance on this topic.

Comment: Several commenters suggested that CMS work with the Congress to simplify Medicare drug coverage by establishing clearer and simpler rules such as covering all prescription drugs under Part D instead of having coverage also under Parts A and B. Furthermore, a commenter urged CMS to consider using its regulatory authority to achieve some simplification by, for example, covering exclusively under Part D all drugs that are currently covered under Part D in the vast majority of cases.

Response: We appreciate commenters' desire for simpler coverage policies for

Medicare-covered prescription drugs. However, as recognized in the comments, statutory changes would be needed to simplify coverage and payment rules, which is outside the scope of this rulemaking. We will evaluate what appropriate simplifications we may be able to make using current regulatory authority.

Comment: Many commenters stated that although they are supportive of CMS' intention to ensure that beneficiaries are able to obtain their prescriptions without the inconvenience and delays that are due to differences in the coverage rules for drugs under Parts A, B, and D, there are going to be circumstances that require the enrollee or someone on the enrollee's behalf to request a coverage determination from the MA–PD. They suggested that CMS revise the proposed rule language to recognize that ''timely'' adjudication might not, and often cannot, occur at the POS because information that is essential to determining whether a drug is covered under Parts A or B often is not available at the POS and must be obtained from the prescriber and sometimes an organization determination also is required from the MA–PD. Pharmacy groups say they follow up with prescribers and MA–PDs, but delays are inevitable when those steps have to be taken.

Response: As indicated in the proposed rule, our intention is to add proposed § 422.112(b)(7)(i) to our regulatory provisions in an effort to improve at the POS the care continuity and coordination between Part D drug benefits and Parts A and B drug benefits administered by the MA–PD, not to establish a requirement that pharmacies be responsible for making coverage determinations. Although plans have the discretion to treat POS transactions as coverage determinations, it is our understanding that network pharmacies do not receive all of the information needed to act on behalf of hundreds of Part D sponsors in making robust coverage determinations and generating the required denial notice with detailed formulary information and appeal rights. Additionally, the current HIPAA transaction standards do not support the type and volume of information that would be necessary to treat POS rejections as adverse coverage determinations.

We realize that there will be circumstances in which the information necessary to determine whether a drug that is not covered under Part D would be covered under Parts A or B will not be available at the POS. In those cases, enrollees will receive the standardized pharmacy notice that explains the right to contact the plan for a coverage determination. However, we do believe that MA–PDs, by working with their network pharmacies and prescribers, are capable of a high degree of coordination and continuity. Through those collaborative efforts, the network pharmacy can often acquire information needed to obtain an edit override from the plan or otherwise ensure that the claim can be processed and paid at the POS.

Comment: Some commenters suggested that CMS adopt use of specific prior authorization codes, increased interoperability across electronic systems, and changes to Medicare's Common Working File (CWF) in order to make drug coverage determinations possible at the POS and decrease billing errors.

Response: We appreciate those suggestions and expect that MA–PDs and their network pharmacies will explore enhancements to their systems to improve communications and otherwise streamline their processes in order to ensure timely and accurate processing of POS transactions. We welcome suggestions for appropriate approaches that would support such improvements but decline to adopt rules to that effect at this time.

Comment: A few commenters stated that CMS' proposal to have plans pay for a drug and subsequently chase the responsible party for reimbursement would be inefficient and costly.

Response: We clarify for those commenters that neither our proposed nor this final rule include any provision that will require MA–PDs to pay for or cover a drug for an enrollee when another payor is responsible for that payment, or when a payment determination cannot be made at the POS. We agree that a ''pay and chase'' policy would not be efficient, and is not always in the best interest of the enrollee. As we discussed in the proposed rule, implementing a requirement to authorize all claims at the POS may interfere with medically appropriate pre-authorization requirements and may trigger retrospective enrollee liability depending on the difference in enrollee cost-sharing for coverage under Parts A, B, and D, retrospective TROOP adjustments and Part D reconciliation (79 FR 2009). We are finalizing the proposal to require MA–PDs to coordinate with their network pharmacies and prescribers to improve existing processes and develop new ones in order to ensure that enrollees receive their Medicare-covered prescribed medications, without delay, when they present at the network pharmacy.

After considering the comments, we are revising § 422.112(b)(7)(i) by deleting the reference to ''claims adjudication'' so there is a clearer distinction between the POS requirements addressed in paragraph (b)(7)(i) from the coverage determination requirements referenced in paragraph (b)(7)(ii). We are finalizing paragraph (b)(7)(i) to state that MA–PD plans must establish and maintain a process to ensure timely and accurate POS transactions. Compliance with this requirement may be achieved using adequate messaging and other procedures with network pharmacies to ensure care continuity and coordination at the POS between Part D drug benefits and Parts A or B drug benefits administered by the MA–PD.

When processing a coverage determination for a prescription drug that may be covered under Parts A, B or D, if the MA–PD determines, as part of the coverage determination process, that the requested drug is not covered under Part D, it must then evaluate whether the drug in question is covered under Parts A or B. The MA–PD is responsible for providing a clear explanation of its decision, including the decision to cover the requested drug under a different benefit and how to obtain the drug (for example, instructions to take the plan decision notice to the pharmacy to obtain the requested drug) in the Part D standardized denial notice. We expect to work with stakeholders to explore program enhancements that may be more uniquely suited for plans that offer both Parts A, B, and D benefits. We are finalizing, as proposed, § 422.112(b)(7)(ii) and are exploring possibilities for future subregulatory guidance on this topic.

2. Good Cause Processes (§§ 417.460, 422.74 and 423.44)

Section 1851(g)(3)(B)(i) of the Act provides that MA organizations may terminate the enrollment of individuals who fail to pay basic and supplemental premiums after a grace period established by the plan. Section 1860D–1(b)(1)(B) of the Act generally directs us to establish regulations related to enrollment, disenrollment, and termination for Part D plan sponsors that are similar to those established for MA organizations under section 1851 of the Act. In addition, section 1860D–13(a)(7) of the Act mandates that the premiums paid by individuals with higher incomes be increased by the applicable Part D income related monthly adjustment amount (Part D IRMAA), for the months in which they

are enrolled in Part D coverage. Consistent with these sections of the Act, subpart B in both the Part C and Part D regulations sets forth requirements with respect to involuntary disenrollment procedures at § 422.74 and § 423.44, respectively. An MA or Part D plan that chooses to disenroll beneficiaries for failure to pay premiums must be able to demonstrate that it made a reasonable effort to collect the unpaid amounts by notifying the beneficiary of the delinquency, providing the beneficiary a period of no less than 2 months in which to resolve the delinquency, and advising the beneficiary of the termination of coverage if the amounts owed are not paid by the end of the grace period.

In addition, current regulations at § 417.460(c) specify that a cost plan, specifically a health maintenance organization (HMO) or competitive medical plan may disenroll a member who fails to pay premiums or other charges imposed by the plan for deductible and coinsurance amounts. With the exception of the grace period, the procedural requirements for cost plans to disenroll a member for failure to pay premiums are similar to those for MA and Part D plans. The cost plan must demonstrate that it made reasonable efforts to collect the unpaid amount and sent the enrollee written notice of the pending disenrollment at least 20 days before the disenrollment effective date.

In the April 2011 final rule (76 FR 21432), we amended both the Parts C and D regulations at § 422.74(d)(1)(v), § 423.44(d)(1), and § 423.44(e)(3) regarding involuntary disenrollment for nonpayment of premiums or Part D IRMAA to allow for reinstatement of the beneficiary's enrollment into the plan for good cause. In the April 2012 final rule (77 FR 22071), we extended the policy of reinstatement for good cause to include beneficiaries enrolled in cost plans in § 417.460(c)(3), thus aligning the cost plan reinstatement provision with the MA and PDP provisions. These good cause provisions authorize us to reinstate a disenrolled individual's enrollment without an interruption in coverage in certain circumstances where the non-payment was due to circumstances that the individual could not reasonably foresee or could not control, such as an unexpected hospitalization. Since its inception, the process of accepting, reviewing, and processing beneficiary requests for reinstatement for good cause has been carried out exclusively by CMS. However, we have received feedback from plans on ways to improve the good cause process and make it more efficient for both the plans and CMS. Based on this feedback, we updated Chapter 2 of the Medicare Managed Care Manual and Chapter 3 of the Medicare Prescription Drug Benefit Manual to clarify the language of the notice provided to beneficiaries, and the process and timing of receiving payments during the extended grace period in connection with § 417.460(c)(3), § 422.74(d)(1)(v), and § 423.44(d)(1)(vi). In addition, we updated the Complaints Tracking Module (CTM) Standard Operating Procedures (SOP) to permit plans to transfer requests for reinstatement for good cause to CMS.

In light of ongoing feedback, in the January 2014 proposed rule we proposed to amend § 417.460(c)(3), § 422.74(d)(1)(v), and § 423.44(d)(1)(vi) to permit an entity acting on behalf of CMS to effectuate reinstatements when good cause criteria are met. This proposal would allow us to designate another entity, including a plan (MA organization, Part D sponsor, or entity offering a cost plan) to carry out portions or all of the good cause process. While we envisioned an expanded role for plans to accept incoming requests for reinstatement directly from former enrollees, which would allow them to be more responsive to their current and former members, we stated that ensuring objectivity in the review of these cases and equity among beneficiaries regarding the determination of good cause was critically important. Accordingly, we indicated that we would establish operational policy and processes in subregulatory guidance to set parameters for the application of the good cause standard, including the submission to us of certain cases for review to ensure that plans remain impartial and equitable in their assessment and treatment of former members who have been disenrolled for nonpayment of premiums. These changes would be accompanied by the development of an oversight protocol for any activities assigned to a designee that are currently carried out by CMS.

In addition, we proposed a technical change to the language in § 417.460 to clarify that good cause protections for enrollees in cost plans apply to instances where there was a failure to pay either plan premiums or other charges.

We received the following comments and our responses follow:

Comment: Commenters expressed both support for and opposition to our proposal to allow an entity acting on behalf of CMS to effectuate reinstatements when it is determined that good cause criteria are met. Several commenters agreed that plans or an independent contractor could perform this function if provided appropriate guidance and that this new process could produce efficiencies that would be advantageous to beneficiaries, plans and CMS. Other commenters believed that only CMS or an independent contractor would have the knowledge and impartiality to consider these cases appropriately. In addition, a few commenters expressed concerns with the quality of work currently performed by plans and CMS contractors and did not believe that their current performance warranted an increase in responsibility.

Response: We thank commenters for their feedback in response to this proposal. We continue to believe that with proper guidelines, instructions and oversight, entities to which we assign this activity could review and process good cause requests in an appropriate manner. Given the feedback we have received since establishing the good cause review process handled exclusively by us, we have learned that some good cause reinstatement requests could be resolved more efficiently by plans since they can readily access a former enrollee's premium billing and payment history, and as such, are well positioned to more easily resolve disenrollment disputes that are erroneously being treated, at least initially, as good cause requests.

We fully understand that impartiality would be a key concern if this function is performed by plans. That is why we noted in the January 2014 proposed rule that if we were to exercise the authority we proposed to include in these regulations, an oversight protocol would be developed and CMS would retain the right to review cases to ensure that determinations made by a CMS designee are in line with our guidance.

Comment: Under the assumption that plans would be given the responsibility to perform good cause reviews, a few commenters had questions about the plans' scope of responsibility. Specifically, a commenter questioned whether plans would be permitted to refer a case to CMS for review and decision. Another commenter questioned whether plans would be able to opt out of this work if they did not want to take on the burden or costs related to this activity. Lastly, a commenter questioned whether or not beneficiaries would be able to appeal the plan's decision.

Response: In the event we assign the good cause process to plans, the expectation would be that they perform the work from start to finish (that is, intake, research, decision, notification,

and effectuation). We would provide guidance regarding these activities in our enrollment manuals (Chapter 2 and Chapter 17, Subchapter D, of the Medicare Managed Care Manual and Chapter 3 of the Medicare Prescription Drug Benefit Manual) and, as part of the designation, we would retain the authority to review both favorable and unfavorable decisions to ensure that results are fair and sound. In addition, as mentioned previously, we would develop an oversight protocol to ensure that plans are compliant with our guidelines. As with other MA and Part D policies, we realize that sometimes plans need feedback or guidance from us to address certain unique issues. That would continue to be the case for good cause reviews, but the expectation would be that once we assign this process to plans, they would develop their own internal processes for reviews, based on our guidance, and carry out the majority of this workload without involving us.

Beneficiaries do not currently have the right to appeal good cause determinations. Ultimately our goal is to streamline the good cause review process and make it easier for all parties (beneficiaries, plans, and CMS) to navigate. As such, we believe that the key to any successful delegation of this work to the plans would be providing clear and complete guidance to plans, but not adding another layer of review to the process.

Finally, should we conclude that plans are appropriate entities to perform good cause reviews, we would assign this function to all plans, and under the revisions to the regulations being finalized here, we would require plans to accept this additional responsibility. Specifically, we are finalizing the revisions to the applicable regulations to provide that a third party to which CMS has assigned this responsibility, such as an entity offering a cost plan, a MA organization, or a Part D plan sponsor, may reinstate an enrollee based upon the good cause showing. We believe it would be more complicated operationally, and confusing to beneficiaries, if we did not implement a uniform process for handling requests for reinstatement.

Comment: A commenter expressed support for the proposed revision to include language regarding a cost plan enrollee's ability to request reinstatement for good cause not only for failure to pay premiums, but also for nonpayment of ''other charges'' including deductibles and cost-sharing.

Response: We thank the commenter for their support for this regulatory change and for confirmation of the need to expand this beneficiary protection to cost plan enrollees.

After careful consideration of these comments, we are finalizing the proposed amendments to the regulations with modifications to clarify that the third party to which CMS may assign this responsibility may be an MA organization, a Part D sponsor or an entity offering a cost plan.

3. MA Organizations' Extension of Adjudication Timeframes for Organization Determinations and Reconsiderations (§ 422.568, § 422.572, § 422.590, § 422.618, § 422.619)

Sections 1852(g)(1)(A) and 1852(g)(2) of the Act respectively require MA organizations to make all organization determinations on a timely basis, and to provide for reconsideration, or review, of organization determinations within a timeframe specified by the Secretary, but no later than 60 days from the date of receipt of the request for reconsideration. Section 1852(g)(3)(B) of the Act requires MA organizations to maintain procedures for expediting organization determinations and reconsiderations when a physician's request indicates that applying the standard timeframe could seriously jeopardize the life or health of the enrollee or the enrollee's ability to regain maximum function or when, in the case of an enrollee's request, the MA organization makes such a determination on its own. In expedited cases, the MA organization generally must issue its decision no later than 72 hours from receipt of the request. Section 1852(g)(3)(B)(iii) of the Act permits the Secretary to extend this 72-hour decision-making timeframe in certain cases.

Our existing regulations at 42 CFR part 422, subpart M, codify the procedures MA organizations must follow in issuing standard and expedited organization determinations and reconsiderations, including setting forth the required adjudication timeframes and the circumstances under which plans are permitted to extend those timeframes.

As we stated in the proposed rule (79 FR 2011), we believe the current language that permits extension of the adjudication timeframes set forth in § 422.568(b), § 422.572(b), § 422.590(a)(1), and § 422.590(d)(2) is being interpreted more broadly than we intended and that MA organizations are regularly invoking extensions of the adjudication timeframes for organization determinations and reconsiderations. Based on information ascertained during recent MA program audits, we have seen circumstances in which MA organizations are routinely and inappropriately invoking the 14-day extension in cases where the plan: (1) Lacks adequate internal controls to ensure coverage requests are reviewed and adjudicated within the required regulatory timeframe; and (2) is awaiting receipt of supporting clinical documentation from one of its contract providers.

Routinely invoking an extension of the applicable adjudication timeframe is counter to the intent of the statutory and regulatory requirements for timely determinations that emphasize the health needs of the beneficiary in determining the appropriate adjudication timeframe. Extensions that are not affirmatively requested by the enrollee should be permitted only in limited circumstances, and only if the extension is in the enrollee's interest. MA organizations are required by regulation to render all coverage decisions as expeditiously as the enrollee's health condition requires. When plans choose to subject an item or service to a prior authorization requirement, we expect them to have the resources to process those requests in a timely manner.

In the proposed rule, we suggested revising these regulatory provisions to clarify our intended standard for when it is appropriate for an MA organization to extend an adjudication timeframe. Specifically, we proposed the following changes:

- At § 422.568(b), § 422.572(b), and § 422.590(e), to add new text and to restructure the regulation paragraphs for clarity.
- At § 422.568(b)(1)(ii), § 422.572(b)(1)(ii), and § 422.590(e)(1)(ii), to clarify that an extension may be justified and in the enrollee's interest due to the need to obtain additional medical information, which may result in changing the MA organization's denial of coverage of an item or service only from a non-contract provider.
- At new § 422.568(b)(1)(iii), § 422.572(b)(1)(iii), and § 422.590(e)(1)(iii), to clarify that an extension of the adjudication timeframe may be permitted when the extension is justified due to extraordinary, exigent or other non-routine circumstances, and it is in the enrollee's interest.
- To make corresponding technical edits to subpart M to improve clarity in our guidance related to extensions and to remove duplicative language (that is, to remove § 422.590(d)(2) and add a new § 422.590(e), to update cross references in § 422.618(a)(1) and § 422.619(a), to make changes within § 422.568(b), § 422.572(b), and § 422.590(d) to ensure

consistency in the structure and language of these provisions).

We received the following comments on this proposal and our responses follow:

Comment: Several commenters expressed general agreement that extensions to adjudication timeframes for organization determinations and reconsiderations should not be invoked routinely. Some commenters expressed strong support for this proposal and stated that it would reduce inappropriate delays in coverage decision-making and, therefore, reduce current delays in access to needed care that result from more routine use of extensions.

Response: We appreciate the support expressed by these commenters. The clarifications we proposed reinforce longstanding statutory and regulatory program requirements for timely decision-making that emphasize the beneficiary's health condition and the urgency of the requested item or service.

Comment: A few commenters who did not support the proposal stated that both contract and noncontract providers are not always responsive to plan requests for clinical information. A commenter further stated that MA organizations should not be penalized for delays resulting from third parties' failure to provide documentation necessary for a timely coverage decision. Another commenter added that it is not realistic to expect contract providers to produce complete medical documentation in response to every coverage request, and that it is not reasonable to expect provider contracting to ensure that full documentation is produced without the need for extensions. Because of those concerns, these commenters did not believe MA organizations should be restricted from using extensions on the basis of the provider's contracting status.

Response: We have considered contract providers as agents of the MA organization offering the plan, and we believe it is reasonable to expect MA organizations to use provider contracting to establish a wide range of expectations for network providers to ensure compliance with program rules, including timely receipt of relevant clinical documentation. MA organizations remain responsible for compliance with MA rules and requirements, even when using contractors or other entities to fulfill those responsibilities. (For more detailed information, see § 422.504(i)). We expect the contract terms between MA organizations and their contract providers to properly incentivize contract providers, as necessary, to produce requested clinical records in a timely manner.

We appreciate that health care providers working with managed care plans must navigate a complex and changing health care environment and routinely contract with multiple plans. However, we do not agree that these challenges should prevent MA organizations from rendering coverage decisions that are completed as expeditiously as the enrollee's health condition requires. The contractual arrangement with network providers is an important tool plans can use to ensure compliance with these beneficiary protections.

We expect plans to promptly solicit and obtain contract providers' clinical documentation when an enrollee requests coverage of an item or service. When the case file contains incomplete information, we expect plans to work diligently with contract providers to cure the defect while adhering to the requirement to issue all decisions as expeditiously as the enrollee's health condition requires. As stated previously and described in more detail later in this final rule, the new regulation text at § 422.568(b)(1)(iii), § 422.572(b)(1)(iii) and § 422.590(e)(1)(iii) clarifies that extensions are permitted—regardless of provider contracting status—if necessary clinical documentation is not readily available due to extraordinary, exigent or other non-routine circumstances.

We believe that plans can mitigate overuse of extensions by correcting other common compliance problems. For example, plans often receive audit findings for failure to conduct timely or sufficient outreach to providers to obtain necessary clinical information during the coverage determination process. Ensuring reasonable and diligent provider outreach will improve the plan's ability to issue timely decisions based on consideration of complete clinical information.

We expect plans to make reasonable, timely, and diligent efforts to obtain medical records from both contract and non-contract providers without having to extend the adjudication timeframe. However, we agree with the commenters that MA organizations have little control over a non-contract provider who does not respond to the plan's requests for documentation. For this reason, we are clarifying at § 422.568(b)(1)(ii), § 422.572(b)(1)(ii) and § 422.590(e)(1)(ii) that extensions are permitted when the plan is seeking clinical information from a noncontract provider, as long as the extension is in the enrollee's best interest. While we acknowledge this limitation, we nevertheless expect plans to make reasonable efforts to obtain necessary information from noncontract providers in a manner which affords the enrollee a timely decision.

We believe our proposed changes strike the appropriate balance between minimizing the burden on MA plans and providers (both contract and non-contract) and protecting enrollees' statutory right to timely decisions and to timely access to the appeals process.

Comment: A few commenters disagreed with our proposal because they believed that CMS was eliminating all extensions.

Response: It appears that these commenters misunderstood our proposed change. This change will not eliminate extensions. Extensions of up to 14 days will continue to exist for both standard and expedited requests for organization determinations and reconsiderations. As we stated in the proposed rule, we proposed these changes to clarify our existing intent that extensions at the MA organization's behest should only be taken on a limited basis and only when they are in the enrollee's interest.

Comment: Several commenters—both supportive and not supportive of CMS' proposal—noted that consideration of complete clinical documentation during the coverage decision process is in the best interest of the enrollee. Some of those commenters who disagreed with our proposal also stated that use of extensions to obtain missing clinical information when the plan is seeking that information is, therefore, also in the best interest of the enrollee. Likewise, some of these commenters expressed a belief that not taking an extension would be detrimental to enrollees by resulting in increased denials and delays in access to care.

Response: While we agree that it is in the best interest of an enrollee that the MA organization reviews complete clinical information when adjudicating a coverage request, we disagree with the commenters that use of extensions is in the best interest of the enrollee when such extensions are taken in the absence of extraordinary, exigent, or other non-routine circumstances. Section 1852(d) of the Act requires reasonably prompt access to medically necessary services—including compliance with provider network adequacy requirements established at § 422.112 of the regulations—and section 1852(g) of the Act requires timely coverage decisions that emphasize the health needs of the beneficiary in determining the appropriate adjudication timeframe. We do not believe that complete consideration of clinical documentation

and adjudication within the established timeframes are mutually exclusive activities. We established MA adjudication timeframes with strong support from stakeholders, including the managed care industry, and physician groups. (For a more detailed discussion, see the June 29, 2000 **Federal Register** (65 FR 40278)). Therefore, we do not believe that our proposed changes will cause a delay in access to care since MA organizations should be able to obtain the necessary information and render a decision within the established timeframes.

The new regulatory provisions at § 422.568(b)(1)(iii), § 422.572(b)(1)(iii) and § 422.590(e)(1)(iii) permits MA plans to invoke an extension in limited circumstances where timely receipt of necessary clinical information is not possible, for example, if a provider's office is flooded and additional time is needed to reach the provider and/or to obtain off-site or electronic records that would support a favorable coverage decision. We recognize that these extraordinary, exigent or other non-routine circumstances may arise regardless of whether the provider(s) involved has a contract with the plan; therefore, these extensions are not restricted to noncontract providers.

Comment: A commenter recommended that, instead of finalizing this proposal, CMS should use its existing oversight authority to take compliance or enforcement action against the MA organizations that over utilize extensions of adjudication timeframes.

Response: We agree with this commenter that imposing corrective action on MA organizations that are routinely noncompliant with required decision-making timeframes is an appropriate use of CMS' oversight authority, but we disagree that this should be done in lieu of our proposed changes. Based on recent program experience, we believe our intended restrictions from the original adoption of these rules on the use of extensions are broadly misinterpreted and that our proposed changes to clarify our policy will enhance beneficiary protections by reducing inappropriate delays in access to care and access to the appeals process.

Relying on compliance and enforcement authority alone is not a sufficient response to identification of a broadly misinterpreted policy. By clarifying our intent that extensions are appropriate only in a limited set of circumstances, we aim to assist MA plans in their development of operational policies and procedures related to processing coverage decisions and, ultimately, to meet our goal of overall program compliance in the absence of corrective action and the beneficiary risks that may come with it.

After consideration of the comments received on this proposal, and for the reasons noted in our January 2014 proposed rule, we are finalizing without modification the proposal to clarify that an extension to an adjudication timeframe for organization determinations and reconsiderations should be permitted only in limited circumstances.

D. Strengthening Our Ability To Distinguish Stronger Applicants for Part C and D Program Participation and To Remove Consistently Poor Performers

1. Two-Year Prohibition When Organizations Terminate Their Contracts (§§ 422.502, 422.503, 422.506, 422.508, and 422.512)

Section 1857(c)(4)(A) of the Act prohibits organizations from re-entering the MA program in the event that a previous contract with the organization was terminated at the request of the organization within the preceding 2-year period, except in circumstances that warrant special consideration.

We proposed to amend the text of the regulations implementing these provisions to maintain consistency in their application and harmony with our policy. Specifically, we proposed to amend the regulations at §§ 422.502(b)(3), 422.506(a)(4), and 422.512(e)(1) to explicitly apply the 2-year prohibition to applications for service area expansions in addition to applications for new contracts. These changes to §§ 422.502(b)(3), 422.506(a)(4), and 422.512(e)(1) would make the text of these regulations consistent with the text at §§ 422.503(b)(7) and 422.508(c) with regard to the 2-year prohibition imposed as a condition of a mutual termination of an MA contract.

We also proposed to amend our policy on the current application of regulations implementing the 2-year prohibition to avoid unnecessarily narrowing the scope of the 2-year prohibition or precluding us from preventing poor performing MA organizations from reentering the MA program. We proposed to interpret §§ 422.503(b)(6) and 422.503(b)(7) as authorizing denials of new contracts and service area expansions, consistent with the proposed text for §§ 422.502, 422.506 and 422.512, regardless of the contract type, product type, or service area of the previous nonrenewal. We further proposed adding a sentence to paragraphs (c) and (d) of § 422.508 to make it clear that a mutual termination of a MA contract would result in a ban on all contract types and service area expansions.

We received the following comments on this proposal and our responses follow:

Comment: A commenter supported the proposal, stating that it will prevent poor performing organizations from re-entering the program through another product type of extension of an existing service area.

Response: We thank the commenter for this support.

Comment: A commenter supported CMS's interpretation of the 2-year prohibition rule to voluntary nonrenewals and mutual terminations and CMS's efforts to ensure poor performing MA organizations do not re-enter the marketplace.

Response: We thank the commenter for this support.

Comment: A commenter requested that CMS consider only applying the 2-year prohibition to the legal entity level, rather than applying the 2-year prohibition to the parent organization level, as this would be an overly broad application which could affect multiple legal entities and numerous contracts.

Response: We currently apply the 2-year prohibition at the legal entity level and will continue to do so.

We are finalizing the amendments to §§ 422.502(b)(3), 422.506(a)(4), 422.508(c) and 422.512(e) as proposed. Although we discussed the amendments to § 422.508(c) and § 422.508(d) in the preamble to the January 6, 2014 proposed rule, we inadvertently omitted the proposed amendments to §§ 422.508(c) and 422.508(d) from the proposed regulation text. We are including the revision to § 422.508(c) in this final rule. We are not finalizing the proposed amendment to § 422.508(d) as upon further consideration we believe that this amendment is not appropriate. We are also amending § 422.506(a)(4) by removing the word ''special'' before ''circumstances warranting special consideration'' in order to maintain consistency with the regulation text at § 422.503(b)(6), § 422.508(c) and § 422.512(e), as we do not differentiate between circumstances warranting special consideration and special circumstances warranting special consideration in our administration of these regulations. We believe the use of ''special'' in § 422.506(a)(4) is redundant and its removal does not affect our interpretation of the provision and its inclusion potentially leads to ambiguity in § 422.506(a)(4). We are also finalizing, without modification, our proposal regarding the interpretation of

related regulations that implement the 2-year prohibition. We clarify here that the 2-year prohibition, for purposes of §§ 422.502, 422.506, 422.508, and 422.512, is applied at the legal entity level. We are further clarifying that the 2-year ban is applicable for the 2 contract years following the year in which the non-renewal or termination of an organization's contract is effective. For example, if an organization does not renew its contract for an effective date of December 31, 2015 then we would not enter into a contract with the organization for contract years 2016 and 2017 unless there are circumstances that warrant special consideration. The organization can apply to contract with us in contract year 2017 to operate in contract year 2018. Likewise, if an organization enters a mutual termination for a contract with CMS midyear during 2015, then we will not enter into a contract with the organization for contract years 2016 and 2017 absent circumstances warranting special consideration, but the organization can apply to contract with us in 2017 to operate in contract year 2018. We understand there are a variety of reasons that an organization may decide to terminate or to renew a contract, and subsequently want to re-enter the program. We will consider these circumstances on a case-by-case basis.

2. Withdrawal of Stand-Alone Prescription Drug Plan Bid Prior to Contract Execution (§ 423.503)

Occasionally, organizations new to Part D that have qualified for a Medicare PDP sponsor contract withdraw their bids after we have announced the low-income subsidy (LIS) benchmark but prior to executing the contract for the coming plan year. These withdrawals interfere with our administration of the Part D program, in particular the auto-assignment of LIS beneficiaries. To address this problem, we proposed to adopt regulatory provisions that would impose a 2-year application ban on organizations not yet under contract with us as PDP sponsors that withdraw their applications and bids after we have issued our approvals. We made this proposal under our authority at section 1860D–12(b)(3)(D) of the Act to adopt additional contract terms, including the conditions under which we would enter into contracts, not inconsistent with the Part D statute.

In February of each year, we solicit applications from organizations seeking to qualify to enter into a contract to offer stand-alone PDPs in the upcoming plan year. These organizations, along with current PDP sponsors who wish to continue participating in the Part D program, submit bids in June for our review and approval. We review these applications and bids with the expectation that, upon approval, the organizations would enter into PDP sponsor contracts with us in September to provide the Part D benefit for the plan year starting the following January.

As part of the annual bid review, we calculate the LIS benchmark for each PDP Region based on the bids for basic PDPs submitted annually by current PDP sponsors that will operate in that region in the coming year. Sponsors whose monthly premiums fall at or below the benchmark in a region receive auto enrollments from us of LIS eligible beneficiaries in those regions. We normally announce the LIS benchmark in late July or early August.

In recent years, some organizations have withdrawn their applications and bids following the announcement of the LIS benchmark. Because these organizations withdrew prior to executing a contract, and we cannot compel them to sign the contract, they are not subject to our compliance or oversight authority, and nothing in our current regulations prevents these applicants from withdrawing their applications late enough in the process to cause significant disruption. In contrast, when an existing PDP sponsor withdraws its bid, we treat such an action as an election by the PDP sponsor to non-renew its contract in that PDP Region, which renders the sponsor ineligible to submit another application for 2 years, under our regulations at § 423.507(a)(3). We proposed to make a regulatory change to ensure equal treatment between new applicants and existing PDP plan sponsors, which would allow us to maintain an accurate depiction of the contracting landscape. Specifically, we proposed to amend § 423.503 by adding paragraph (d) which would impose a 2-year Part D application ban on organizations approved by CMS as qualified to enter into stand-alone PDP sponsor contracts but which elect, after our announcement of the LIS benchmark, not to enter into such contract and withdraw their PDP bids. This proposed regulatory change, in effect, would subject a withdrawing applicant to the same penalty we may apply to an organization already under contract that elects to terminate or not renew its PDP contract.

It is critical that we have an accurate portrayal of the number and type of plan benefit packages that would be available to beneficiaries in every PDP Region, especially during the end of the summer when much of the bid review, both the formulary and actuarial components, has been completed. During this period, we need to confirm that there is the required minimum number of plans available in each PDP region. We also need accurate plan information at the end of the summer so that we can meet the production deadlines associated with the annual election period, including publication of the Medicare & You handbook as well as updating the Medicare Plan Finder Web site and our payment and enrollment systems. An applicant that withdraws its application late in the process alters the contracting landscape, potentially disrupting preparations we have already made, including those related to the auto assignment of LIS beneficiaries, for the upcoming plan year. In adopting the proposed regulatory authority, we would place a reasonable limit on prospective PDP sponsors' option to withdraw bids and applications without penalty. By imposing consequences on applicants that withdraw their bids following the announcement of the LIS benchmark, we also would discourage any ''gaming'' of the bid review and auto assignment processes (for example, by participating in the bid review process until it learns that it will not qualify for auto-assignments) that can occur when applicants opt out of participation in the PDP at the last minute.

We received the following comments and our response follows:

Comment: A number of commenters expressed support for CMS' proposal.

Response: We appreciate the commenters' support of our proposal.

We received only supportive comments for this proposal; therefore, we are finalizing this provision without modification.

3. Essential Operations Test Requirement for Part D (§§ 423.503(a) and (c), 423.504(b)(10), 423.505(b)(28), and 423.509)

We proposed to create, through regulation, an essential operations test, which will be a new step in the application and contracting process with newly contracted entities operating as stand-alone PDP sponsors or MA organizations offering Part D plans (MA–PDs). This step will be administered to ''newly contracted entities.'' We used the term ''newly contracted entity'' in the proposed rule and in this final rule to describe an organization that has entered or applied to enter into a Part D contract with us for the first time for the upcoming plan year, and neither it, nor another subsidiary of the organization's parent organization, is offering Part D benefits during the current benefit year. This

would include organizations that are offering EGWPs for the first time. Existing plan sponsors or new sponsors that are subsidiaries of a parent company that currently operates a Part D plan through another subsidiary would not be subject to the proposed essential operations test.

The essential operations test will allow us to test whether an organization's arrangements appear likely to allow the organization to effectively administer its contract. We proposed to require organizations to pass an essential operations test either—(1) as a qualification to contract, with failure to pass the test nullifying our approval of the application; or (2) after contract execution as a contract requirement but prior to the start of the benefit year, with a failure to pass the test triggering an immediate contract termination under § 423.509.

Pursuant to section 1860D–12(b)(3)(D) of the Act, which incorporates by reference section 1857(e)(1) of the Act, we have the authority to add contract provisions that are necessary and appropriate to carry out the Part D program; section 1860D–11(b) of the Act provides authority for the collection of additional information as part of the bid as we may require to carry out the Part D program. Based on this authority we proposed adding § 423.504(b)(10) and § 423.505(b)(28) to include passing an ''essential operations test'' as a condition to enter into and a term of the Part D contract. Additionally, pursuant to our authority at section 1860D–12(b)(3)(B) and (b)(3)(F) of the Act (which incorporate by reference section 1857(c)(2) and (h) of the Act, respectively, to apply to the Part D program), the current regulations at § 423.509(a) and (b)(2)(i), authorize immediate termination of contracts with Medicare Part D plan sponsors in certain circumstances. We believe that immediate termination would be authorized under the standard of section 1857(h)(2) of the Act because the inability of a plan sponsor to ensure future members' access their drug benefit, as evidenced by failure to pass the essential operations test, would constitute an imminent and serious risk to beneficiary health and safety. We proposed adding § 423.509(a)(4)(xii) and revising § 423.509(b)(2)(i)(C) to subpart K to reflect this new cause for immediate termination. Additionally, we proposed to explicitly include the essential operations test as a means to evaluate Part D applicants in § 423.503(a)(1) and to add § 423.503(c)(4) to subpart K to establish failure of an essential operations test as grounds for nullifying our approval of the application notice.

Given that the heart of the Part D benefit is the sponsor's ability to process claims for prescription drugs in real time, we proposed the essential operations test and associated regulatory changes because of our experience with certain newly contracted entities in the Part D program that experienced significant operational difficulties at the start of the benefit year as a result of their inexperience administering Part D benefits. To prevent the recurrence of this problem and ensure that new sponsors are prepared to and actually can deliver Part D benefits at an acceptable level, starting with the 2015 contract year application cycle, we proposed that we may require newly contracted entities to pass an essential operations test conducted by us beginning in the fall of 2014. In response to the later anticipated date of the finalization of this provision, we expect to adjust our proposed timing and begin requiring newly contracted entities to pass an essential operations test with the 2016 contract year application cycle.

The essential operations test for newly contracted entities will entail testing of sponsors' command of Part D benefit administration rules and systems related to these areas. Initially, the testing will consist of scenario testing with sponsors' key staff to show us that they have a firm grasp of the Part D policies and essential operations. The test will be able to verify whether an applicant's administrative and management arrangements, as attested to in its application, are sufficient for the applicant to carry out functions listed in § 423.504(b)(4)(ii) such as furnishing prescription drug services and implementing utilization management programs.

Provided we have the resources, in the future, the test will likely become significantly more sophisticated and involve live testing of sponsors' systems with test data. The more involved test would also likely include testing the processes related to enrollment such as MARx communication and processing; LIS processing and determinations; coverage determinations, appeals, and grievances (CDAG) processing; and real-time coordination of benefits data exchange and processing. For instance, the sponsor would need to demonstrate the ability to pay test claims correctly in real-time consistent with its CMS-approved benefit packages (including formulary) and the Part D transition fill policy.

a. Failing Essential Operations Test as Cause for Immediate Termination

Once a sponsor signs its contract, it is obligated to perform all of the required functions to support the benefits described in the contract even though the sponsor does not start offering benefits until January 1. If we find that, based on the results of the essential operations test, a sponsor does not have the requisite systems and processes in place to offer Part D benefits in real time, our proposal was to consider this cause for immediate termination of the sponsor's Part D contract in order to protect beneficiaries from harm at the start of the contract year.

In accordance with section 1857(h)(2) of the Act (incorporated by reference into PDP by section 1860D–12(b)(3)(F) of the Act), we have the authority to immediately terminate a contract with a sponsor (without notice and opportunity for a hearing) when a delay in termination would pose an imminent and serious risk to the health of beneficiaries enrolled in the sponsor's plans. Also, under §§ 423.509(b)(2)(i) and 423.652(b)(2), unlike standard CMS terminations, the effective date of an immediate termination is not stayed when the sponsor requests a hearing under § 423.650(a)(2). Because enrollment and accurate benefit administration through real time claims processing are so fundamental to the delivery of the Part D benefit, if a sponsor fails to demonstrate to us that it can perform these essential operations, we would view this as a substantial failure to meet the Part D contract requirements on the following grounds: (1) Evidence that the sponsor was carrying out the contract in a manner that was inconsistent with the effective and efficient administration of the plan; and (2) evidence that the sponsor did not substantially meet the applicable conditions set out in the Part D regulations which would ultimately justify, depending upon timing of the test, our termination of a contract consistent with § 423.509(a)(1) through (3) based on the sponsor's failure to meet our proposed contract terms at § 423.504(b)(10) and § 423.505(b)(28). We believe that a newly contracted entity's failure to demonstrate certain critical capabilities and failing the essential operations test represents a substantial failure to carry out its Part D contract. Such a failure poses an unacceptable risk to the new sponsor's future members' access to Part D drugs, which would constitute an imminent and serious risk to beneficiary health and safety, justifying our immediate termination of the sponsor's contract.

For MA organizations that must offer Part D benefits pursuant to § 423.104(f)(3)(i), failing the test would support the termination of the organization's Part D addendum as well as its MA contract under § 422.510(a)(3) because the inability to offer Part D benefits means that the organization no longer meets the applicable conditions associated with offering Part C benefits.

b. Failing Essential Operations Test as Failure of a Qualification to Contract and Grounds for Nullification of Approval

If an organization fails an essential operations test we conducted prior to contract signature, we proposed that no termination would be necessary and that we would nullify our previous conditional approval of the organization's Part D contract qualification application. We proposed to explicitly include the essential operations test as a qualification to contract at § 423.503(a)(1) to authorize our use of the test and any information learned in the course of the essential operations test in making the contract determination.

We would view failure of the essential operations test as evidence that the applicant is not qualified to contract with us. As a result, we would nullify our approval based on determining the entity is not qualified. Successful applicants receive a conditional approval at the end of May of their Part D application in accordance with § 423.503(c)(1). The letter informs applicants that the conditional approval is based on the information contained in their application, and if we subsequently determined that any of the information was inaccurate or that qualification requirements are not met, we would withdraw the approval of the application. Through that notice, we preserve the right to nullify our approval. If that occurs, we would not provide the appeal rights described in part 423, subpart N to applicants that have their approval nullified based on failing the essential operations test because an appeals process started at that point could not be completed by the September 1 deadline imposed by § 423.650(c) for contracts to be effective on January 1 of the following year.

We received the following comments and our response follows:

Comment: Most commenters strongly supported CMS' proposals.

Response: We appreciate the support for these proposals.

Comment: Several commenters requested that CMS elaborate on the content of the essential operations test.

Response: Our plan is to initially offer the essential operations test in scenario format rather than in real time. Scenario format means that we will provide the applicant or newly contracted sponsor with written scenarios or stories about fictional beneficiaries. The scenarios will describe the characteristics of the beneficiary such as plan enrollment, LIS level, prior drug claims data, prior authorization criteria information, application date, and any other details necessary for answering our questions. The questions would pertain to topics such as determining the correct effective date of coverage; the appropriate timeframes for specific notifications; drug dispensing formats and requirements; drug coverage and costs; coverage determination process; coordination of benefits; and demonstrating knowledge of new requirements for the upcoming year. The real time test, which may also be combined with scenario tests, would involve electronic data exchanges between CMS and the new organization and/or its PBM, claims processor, enrollment processor, and any other entity contracted with the new organization to carry out key Part D functions.

Comment: Several commenters expressed concern that CMS would expect the new organization to demonstrate full system readiness in September. Other commenters provided information about the development schedule that their organizations follow for the upcoming benefit year.

Response: It is not our expectation that a new organization would have all systems ready to implement the Part D benefit in September. We appreciated the information regarding the development schedule, and we will use the information to inform, in part, our expectations of system readiness when we administer a real time test.

Comment: Several commenters requested that CMS provide new organizations with information about the system requirements of the essential operations test no later than May of each year.

Response: We are aware that new organizations would need time to ensure that the proper infrastructure is in place for real time communication and electronic data exchange with CMS (and our contractors). Therefore, within sufficient time to allow it to make necessary arrangements prior to the test, we will inform the new organization of the types of data files that we will send or exchange. We are unlikely to provide this information before the end of May because, at that time, new organizations will have not yet submitted bids. The essential operations test criteria may be developed based upon areas of concern we identify during the application, bid, and formulary review processes; therefore, in May we may not be certain of the test contents and parameters.

Comment: Several commenters suggested that CMS complete the essential operations test before November 1 due to the heavy workload in the last quarter of the year.

Response: We are aware of the heavy workload at the end of the year created by the annual election period and preparations for the start of the new benefit year. We will try to complete essential operations tests prior to November 1.

Comment: A commenter, a current Part D sponsor, was concerned that this provision would apply to existing or experienced sponsors.

Response: We clarify that this provision would not apply to existing sponsors. Rather, as stated at § 423.503(c)(4)(ii), the essential operations test will only be required of new organizations that do not have any Part D experience or a subsidiary/parent relationship with an experienced organization. If the new organization's parent company currently has other subsidiary organizations that are already offering Part D plans, then the new organization would not be subject to the essential operations test.

We note that the proposed provisions of §§ 423.504(b)(10) and 423.505(b)(28) each began with the phrase, ''Effective contract year 2015,''. This language, originally published in January 2014 as part of a proposal that at the time was expected to be made final in the middle of 2014, has since become outdated and therefore has been deleted from the final version of the rule. The proposed language was intended to make clear that even though the rule was expected to be finalized during the CY 2015 application review cycle we would apply the essential operations test to eligible applicants during that cycle. These provisions are now being made final after the period during which CY 2015 essential operations tests would have been conducted (that is, the fall of 2014). They will also be finalized well in advance of the start of the CY 2016 application cycle in late February 2015, so there is no need to provide a special signal to CY 2016 applicants that they may be subject to the essential operations test other than through the publication of this final rule.

We also note that we are finalizing with modification the proposed provision of § 423.505(b)(28). We are finalizing this provision as

§ 423.505(b)(27), instead of § 423.505(b)(28).

In summary, given the support for this proposal, we are finalizing these provisions with only the technical modifications described previously.

E. Implementing Other Technical Changes

1. Requirements for Urgently Needed Services (§ 422.113)

Many MA plans have responded to the need to provide urgently needed services outside of the network's business hours, for example, during the weekend or at night, by contracting with clinics that have hours of operation well beyond those of traditional physicians' offices to furnish services to their enrollees when the plan network is not available.

To better align the regulations with current practices regarding access to urgently needed care services, we proposed to revise the regulation by removing the phrase ''under extraordinary and unusual circumstances'' from the definition of ''urgently needed services'' at § 422.113(b)(1)(iii). The revised regulatory language would ensure that enrollees have access to out-of-network facilities in non-extraordinary circumstances.

We received the following comments on this proposal and our response follows:

Comment: Several commenters supported the policy because it provides improved access to enrollees.

Response: We thank these commenters for their support.

Comment: A commenter stated that CMS' proposed revision would be burdensome on plans and would not improve health care to enrollees.

Response: In the January 10, 2014 proposed rule, we noted that many plans already contract with clinics that operate 24 hours/day, 7 days/week (24/7) to address the needs of enrollees who need care on weekends or after normal business hours (79 FR 2018). We also noted that there are a small number of appeals each year from enrollees who sought care out-of-network on weekends or after normal business hours and were denied coverage.

We do not believe our proposal adds any burden to health plans. Our proposed revision to the regulation aligns it with current practices for provision of urgently needed services and our intent that enrollees have access to needed care. In fact, we believe that plans could realize savings by making urgently needed services available in settings that are more appropriate to the enrollees' needs than more costly hospital emergency departments.

Comment: A commenter expressed concern that the proposed regulatory language does not specify the circumstances under which the organization's provider network is temporarily unavailable or inaccessible and that, as a result, enrollees might frequently leave the network to obtain care.

Response: Circumstances under which the organization's provider network is temporarily unavailable or inaccessible would largely include weekends or after normal business hours, which we believe is clearly understood from the discussion in the notice of proposed rulemaking. If more extreme situations, such as a natural disaster, result in the network being temporarily unavailable, this rule would apply in those situations as well.

Comment: A commenter requested greater clarification of the definition of urgently needed services.

Response: The definition of urgently needed services, provided at § 422.113(b)(1)(iii), presents several specific requirements for a service to be classified as urgently needed. Additional clarification of the definition of urgently needed services may be found in the preamble to the June 29, 2000 final rule establishing the Medicare+Choice program (65 FR 40198 and 40199). We believe this definition, as modified by the removal of the phrase ''extraordinary and unusual circumstances,'' is sufficient.

After review of the public comments received, we are finalizing the proposed revision to § 422.113 without modification.

2. Agent and Broker Training and Testing Requirements (§§ 422.2274 and 423.2274)

We proposed to revise §§ 422.2274(b) and (c) and 423.2274 (b) and (c) to accomplish the following: (i) Remove CMS-endorsed or approved training and testing as an option; (ii) require that agents and brokers be trained annually on Medicare rules and regulations and details specific to the plan products they intend to sell; and (iii) require annual training to ensure appropriate knowledge and understanding of Medicare rules and specific plan products. Pursuant to our authority under sections 1851(h)(2), 1860D–1(b)(1)(B)(vi), 1851(j)(2)(E), and 1860D–4(l)(2) of the Act, we previously codified agent and broker training and testing requirements at §§ 422.2274 (b) and (c) and 423.2274 (b) and (c) to require all agents and brokers selling Medicare products be trained and tested annually through a CMS-endorsed or approved training program, or as specified by us, on Medicare rules and regulations specific to the plan products they intend to sell.

As we noted in the preamble to the proposed rule, since the training and testing requirements were implemented, we have embarked on various activities to improve and ensure the efficacy of training and testing. We also noted that, through our monitoring efforts, plans are complying with the annual guidance and providing an adequate level of detailed information. Furthermore, our ability to nationally accommodate agents and brokers through various training and testing modules creates a significant burden. We also noted in the preamble to the proposed rule that our ability to maintain consistency with endorsing other entities that would facilitate the training and testing and oversee these entities is limited.

We also proposed that the provisions for ''Reducing the Burden of the Compliance Program Training Requirements'' (§§ 422.503(b)(4)(vi)(C) and 423.504(b)(4)(vi)(C)) require a standardized compliance training program and that, under those provisions, MA organizations and Part D sponsors would not be permitted to develop and implement plan specific training materials or supplemental materials. The requirement in this section is exclusive for agent and broker marketing activities under the MA and Part D program.

We received the following comments and our response follows:

Comment: A commenter supported the provision. However, the commenter requested clarification as to whether CMS will continue to provide annual guidance on training and testing requirements for agents and brokers.

Response: We appreciate the commenter's support and will continue to provide annual guidance on the training and testing requirements.

Comment: A commenter stated that the provision assigns responsibility for the annual agent/broker training to the MA organization, which is an operational burden and additional cost.

Response: We disagree. Since MA organizations and Part D sponsors currently facilitate the agent broker training and testing or contract with a third party, our proposal would not create an operational burden or cost.

Comment: A few commenters stated that this provision potentially conflicts with the proposed requirement under § 422.503 that MA organizations and Part D sponsors use only CMS training for general compliance. A commenter requested clarification on how the first

tier, downstream, and related entities' standardized training applies to agents and brokers.

Response: We believe that this provision does not conflict with the proposed provision in § 422.503. The provision in this section is specific to marketing activities for MA organizations and Part D sponsors.

After review of the public comment received on this proposed provision, we are finalizing this provision without modification.

3. Deemed Approval of Marketing Materials (§§ 422.2262, 422.2266, 423.2262, and 423.2266)

In the January 10, 2014 proposed rule, we proposed to move the substance of the current requirements in §§ 422.2266 and 423.2266 to 422.2262(a)(2) and 423.2262(a)(2), respectively. As previously noted, §§ 422.2266 and 423.2266 provide the regulatory requirements for materials that are deemed approved. These requirements are part of the review and distribution process of marketing materials. Therefore, the provisions were moved to align with the requirements in §§ 422.2262 and 423.2262. Additionally, we proposed reserving §§ 422.2266 and 423.2266 to further clarify the requirements for deemed materials by revising them to state that, if CMS does not approve or disapprove marketing materials within the specified review timeframe, the materials will be deemed approved. Deemed approved means that an MA organization or Part D sponsor may use the material. We believe that this change clarifies the present regulatory requirement for deemed marketing materials.

We received several comments regarding this provision, and our responses follow.

Comment: Several commenters supported this provision. However, a few commenters did request clarification, while others emphasized the importance of streamlining the review and approval process for FIDE SNPs. A commenter also stated that CMS, Medicaid, and the plans should work closer to benefit enrollees.

Response: We thank the commenters for supporting our proposal to revise this provision. In response to the request for further clarification, we will consider including additional guidance in the Medicare Marketing Guidelines as that is the appropriate vehicle for providing detail on the requirements. We also appreciate the concerns with streamlining the review and approval process for FIDE SNPs; however, the comment is outside the scope of this rule.

Comment: A commenter opposed this provision on the grounds that MA organizations are expanding and offering more plan offerings with higher penetration rates in certain counties and regions. The commenter also stated that CMS is responsible for ensuring that marketing practices and materials are carefully monitored.

Response: While we appreciate the commenter's concern, we do not believe that the expansion of plan offerings will have an impact on this provision. Since this provision has been in existence, our analysis of deemed materials has shown that very few marketing materials have been approved through this process. Furthermore, we have protocols in place to monitor marketing materials, including materials that are deemed approved. We note in the Medicare Marketing Guidelines that we may require an MA organization or Part D sponsor to change any previously approved marketing materials if found to be inaccurate, altered or otherwise noncompliant.

After review of the public comments received on this proposal, we are finalizing this proposed provision without modification.

4. Cross-Reference Change in the Part C Disclosure Requirements (§ 422.111)

In the January 10, 2014 proposed rule, we proposed a technical correction to § 422.111(d)(1) to reflect the correct cross reference for procedures that MA organizations must follow when submitting changes to their rules for review. Section 422.111(d)(1) currently references § 422.80, which was removed when the marketing requirements were moved to subpart V, Medicare Marketing Requirements. We noted previously that subpart V, Medicare Marketing Requirements, was published in the September 18, 2008, final rule (73 FR 54208).

We received no comments on our proposal and therefore are finalizing this provision without modification.

5. Managing Disclosure and Recusal in P&T Conflicts of Interest: Formulary Development and Revision by a Pharmacy and Therapeutics Committee Under Part D (§ 423.120(b)(1))

Section 1860D–4(b)(3)(A)(ii) of the Act requires Part D sponsors who use formularies to include on their P&T committees at least one practicing physician and at least one practicing pharmacist, each of whom is independent and free of conflict with respect to the sponsor and the plan and who has expertise in the care of elderly or disabled persons. In our August 3, 2004 proposed rule (69 FR 46659), we proposed to interpret ''independent and free of conflict'' to mean that such P&T committee members could have no stake, financial or otherwise, in formulary determinations. In our January 28, 2005 final rule (70 FR 4256), we adopted this interpretation, and clarified that we would consider a P&T committee member not to be free of conflict of interest if he or she had any direct or indirect financial interest in any entity—including Part D plans and pharmaceutical manufacturers—that would benefit from decisions regarding plan formularies.

In a recent report (''Gaps in Oversight of Conflicts Of Interest in Medicare Prescription Drug Decisions,'' OEI–05–10–00450), the HHS OIG recommended improvements in our requirements for Part D plan P&T committees. Specifically, the OIG report recommended that we establish minimum standards to ensure that these committees have clearly articulated and objective processes to determine whether disclosed financial interests are conflicts and to manage recusals due to conflicts of interests. The OIG report also suggested that we tell sponsors that they need to designate an objective party, such as a compliance officer, to flag and enforce the necessary recusals. In other words, the identification and evaluation of whether a disclosed financial interest represents a conflict of interest should be made by a knowledgeable and accountable representative of the sponsor's organization, such as the compliance officer, and not solely by the P&T committee members themselves. We concurred that P&T committees should have clearly articulated and objective processes to determine whether disclosed financial interests are conflicts, and to manage recusals arising from any such conflicts. Therefore, we proposed to revise our regulations at § 423.120(b)(1) to renumber the existing provisions and add a new paragraph (b)(1)(iv) to require that the sponsor's P&T committee clearly articulates and documents processes to determine that the requirements under paragraphs (b)(1)(i) through (iii) have been met, including the determination by an objective party of whether disclosed financial interests are conflicts of interest and the management of any recusals due to such conflicts.

We also solicited comment on the pros and cons of defining PBMs as entities that could benefit from formulary decisions from which one practicing physician and one practicing pharmacist on the P&T committee must be free of conflict of interest.

We received the following comments and our response follows:

Comment: A commenter noted that the current CMS formulary review process provides the necessary protections to beneficiaries and ensures that formularies are developed and managed in accordance with best practices. This commenter also pointed out that since the P&T committee members do not generally provide their services for free, it is standard practice that the PBM compensates the committee members for their committee-related activities; thereby, providing a financial conflict of interest. The commenter believes that without this financial compensation it would be difficult to engage qualified clinicians for the committee.

Response: While the compensation that P & T committee members receive from PBMs for performing committee-related activities could be seen as a potential conflict of interest, this practice is widely known and generally accepted as necessary to engage the most qualified clinicians. Moreover, we agree with the commenter that the current CMS formulary review process provides the necessary protections to beneficiaries and ensures that formularies are developed and managed in accordance with best practices. We have devoted extensive resources to the oversight of plan formularies and the audit of P&T committee proceedings to ensure that they comply with industry best practices and ensure beneficiaries' access to clinically appropriate therapies. As discussed more fully in the January 10, 2014 proposed rule (79 FR 2019), we believe that our current formulary review process confers appropriate protections to beneficiaries from any potential adverse effects of conflicts of interest.

The OIG report recommended that the P & T committee should have clearly articulated and objective processes to determine if disclosed financial interests are conflicts, and to manage any recusals if conflicts are found. We concur with this recommendation and proposed to revise our formulary requirements pertaining to the development and revision by a P & T committee at § 423.120(b)(1) to make it clear that the Part D sponsor must establish these processes. In our response to the OIG report, we noted that statutory and regulatory provisions (section 1860D–4(b)(3) of the Act and 42 CFR 423.120(b)) indicate that it is the plan's responsibility to meet the formulary requirements; which include the development of these processes.

Comment: Several commenters supported CMS' proposal that P&T committee processes must be clearly articulated, documented, and enforced by an objective party. However, a commenter requested that CMS better define the term ''objective party'' to include a knowledgeable and accountable person at the PBM.

Response: We agree with the commenter and clarify that the objective party may be a representative of the PBM, as long as that representative is not also a member of the sponsor's P&T committee. The objective party should be someone not on the P & T committee, and may include a representative from the PBM that is not on the P & T committee.

Comment: A commenter pointed out that while the proposed recusal process is logical, it is duplicative and the current P&T policy is sufficient for dealing with conflicts of interest.

Response: We disagree with the commenter and concurred with the OIG report's recommendation (as discussed in the January 2014 proposed rule) that P&T committees should have clearly articulated and objective processes to determine conflicts of interest and manage any recusals. We are implementing these requirements on the recommendation of OIG. These requirements are supplemental to the beneficiary protections outlined in existing P&T policy, which does not address recusal and only provides that committee members should sign a conflict of interest statement revealing economic or other relationships with entities affected by drug coverage decisions that could influence committee decisions.

After review of the comments received, we are finalizing this provision without modification.

6. Thirty-Six Month Coordination of Benefits (COB) Limit (§ 423.466(b))

In our April 15, 2010 final rule (75 FR 19819), we exercised our authority under sections 1860D–23 and 1860D–24 of the Act to impose a timeframe on the coordination of benefits between Part D sponsors and other payers including State Pharmaceutical Assistance Programs (SPAPs), other providers of prescription drug coverage, or other payers. In the April 15, 2010 final rule, we explained our approach to determining the 3-year timeframe, including the benefits derived from its establishment.

We stated in our regulation at § 423.466(b) that, Part D sponsors must coordinate benefits with SPAPs, other entities providing prescription drug coverage, beneficiaries, and others paying on the beneficiaries' behalf for a period not to exceed 3 years from the date on which the prescription for a covered Part D drug was filled. The phrase ''a period not to exceed 3 years'' has caused confusion among some sponsors, who interpreted this to mean that the coordination of benefits period could be shorter than 3 years and have consequently imposed tighter timeframes for coordination of benefits.

To clarify the requirement and avoid further confusion, we proposed to remove from the regulation the phrase ''not to exceed,'' and add the word ''of.'' This would clarify that sponsors must employ a coordination of benefits period of 3 years, and would remove any uncertainty about whether they may impose a shorter coordination of benefits period.

We also proposed to revise the heading of § 423.466 to reference claims adjustments, which are addressed in § 423.466(a).

Comment: A commenter indicated the proposed change was an appropriate modification.

Response: We appreciate the support for this provision.

Comment: A few commenters suggested we define the date on which the 3-year COB limit begins as the date the drug is dispensed or the first date of service.

Response: The regulation already specifies the 36-month period begins on the date the prescription for a covered Part D drug was filled. However, we note the date of fill as referenced in the regulation is synonymous with the NCPDP date of service (Field # 401–D1) included in HIPAA standard transactions, such as the billing transaction, and required on the Part D prescription drug event record.

After review of the public comments received in response to this proposal, we are finalizing the provision as proposed.

7. Application and Calculation of Daily Cost-Sharing Rates (§ 423.153)

We proposed technical changes to the daily cost-sharing rate regulation to clarify the application and calculation of daily cost-sharing rates and cost sharing under the regulations. Section 423.153(b)(4)(i) requires sponsors to establish and apply a daily cost-sharing rate whenever a prescription is dispensed by a network pharmacy for less than a 30-days' supply, unless the drug is excepted in the regulation. Currently, under § 423.100, in cases when a copayment is applicable, ''daily cost-sharing rate'' is defined as the monthly copayment under the enrollee's Part D plan, divided by 30 or 31 and rounded to the nearest lower dollar amount, if any, or to another amount,

but in no event to an amount that would require the enrollee to pay more for a month's supply of the prescription than would otherwise be the case. We proposed to replace the numbers with the phrase ''the number of days in the approved month's supply for the drug dispensed'' to address how Part D sponsors that have other days' supplies as their month's supplies are to calculate daily cost-sharing rates.

Also, under our existing definition of ''daily cost-sharing rate'' in § 423.100, as noted previously, and with respect to copayments, the daily copayment cannot be an amount that would require the enrollee to pay more for a month's supply of the prescription than would otherwise be the case. In other words, rounding up is not permitted under the current definition of ''daily cost-sharing rate'' and this has been another cause of confusion for some Part D sponsors. While our original intention was to prohibit significant increases in cost sharing, such as charging the full 30-day copay for both the trial supply and any subsequent refill of a medication, the current limitation on any increase in cost sharing over the 30-day supply amount has reportedly led to unnecessarily complicated programming, as well as proration of other amounts on the claim, such as the dispensing fees. Therefore, we proposed to replace the language ''lower dollar amount, if any, or to another amount,'' with ''the nearest cent.'' We believe this language better conveys the concept of rounding, while realizing this language allows Part D sponsors to round daily cost-sharing rates up or down to the nearest 2 decimal places.

We also proposed other technical changes to the daily cost-sharing rate regulation at § 423.153(b)(4)(i) to improve the regulation's clarity. First, we proposed to consolidate the language of § 423.153(b)(4)(i)(A) into § 423.153(b)(4)(i) and to consolidate § 423.153(b)(4)(i)(B)(1) and (2) into a new paragraph § 423.153(b)(4)(ii). Second, we proposed that the language in § 423.153(b)(4)(i) that addresses the application of the daily cost-sharing rate in the case of a monthly copayment be revised for clarity, and moved to a new paragraph (b)(4)(iii)(A). This paragraph states that in the case of a drug that would incur a copayment, the Part D sponsor must apply cost-sharing as calculated by multiplying the applicable daily cost sharing rate by the days' supply actually dispensed when the beneficiary receives less than a 30-days' supply. Third, we proposed that § 423.153(b)(4)(iii)(B) states that, in the case of a drug that would incur a coinsurance percentage, the Part D sponsor must apply the coinsurance percentage for the drug to the days' supply actually dispensed. We note that this means, with respect to dispensing fees, that the enrollee's portion of additional dispensing fees for the incremental supply is calculated by application of this percentage. These technical clarifications should assist sponsors in correctly setting, calculating, and applying daily cost-sharing rates in the retail and LTC settings whenever a prescription is dispensed by a network pharmacy for less than a 30-days' supply, unless the drug is excepted in the regulation. The proposal solicited comments on whether sponsors needed additional guidance surrounding the rounding methodology.

We received the following comments and our responses follow:

Comment: We received several comments in support of our proposal to clarify the daily cost sharing rule.

Response: We thank the commenters for their supportive comments on our proposal.

Comment: A commenter requesting that the application of the daily cost-sharing rule should be consistent with the changes CMS proposed to the definition of the ''daily cost-sharing rate.'' In other words, the commenter recommended that the daily cost-sharing rule apply whenever less than the approved month's supply is dispensed; rather than, whenever less than a 30-day supply is dispensed. The commenter highlighted that this change would ensure beneficiaries are not required to pay more than they otherwise would have. This is consistent with CMS' intent that even when the member does receive the remainder of a month's supply, the total payment not exceed the 1-month's cost sharing, except by a nominal rounding amount. This commenter provided the following example: A plan's approved month's supply is 34 days, and the applicable copayment is $30. If a member first obtains a 30-day supply and then a 4-day supply, under the current regulatory language, which provides that the daily cost-sharing rule applies when a covered Part D drug is dispensed for a supply less than 30 days, the member would pay $30 for the first supply since it is not for ''less than 30 days'' and then $3.52 (4 x $0.88) for the second supply, for a total of $33.52. However, if the daily cost-sharing rule applied whenever less than the approved month's supply is dispensed, the member would pay $26.40 (30 x $0.88) for the first supply and $3.52 (4 x $0.88) for the second, for a total of $29.92.

Response: We were persuaded by the comments that this suggested change is necessary to avoid confusion with the technical change that we proposed, by making the terminology consistent with the regulatory text. Therefore, we are making the following change to the final regulatory text: Replace ''30 days'' with ''approved month's supply'' in § 423.153(b)(4)(i) and (iii).

Comment: Several commenters indicated that CMS guidance is needed regarding the rounding methodology.

Response: We will provide additional rounding guidance, if needed, after publication of this final rule.

Based on comments received, we are finalizing this proposal as proposed and with the following modification: replacing ''30 days'' with ''approved month's supply'' where applicable in § 423.153(b)(4)(i) and (iii).

8. Technical Change To Align Regulatory Requirements for Delivery of the Standardized Pharmacy Notice (§ 423.562)

The current regulations at § 423.562(a)(3) require Part D plan sponsors to make arrangements with their network pharmacies to distribute notices instructing enrollees how to contact their plans to obtain a coverage determination or request an exception. This is accomplished through delivery of a standardized notice, CMS–10147—''Medicare Prescription Drug Coverage and Your Rights'' (''pharmacy notice''). Section 423.562(a)(3) cross-references § 423.128(b)(7)(iii), added in our April 2011 final rule (76 FR 21432), which requires plans to have a system in place that transmits codes to network pharmacies so the pharmacy is notified to deliver the pharmacy notice at the POS in designated circumstances where the prescription cannot be filled as written.

Pursuant to the 2011 regulatory change, we issued subsequent guidance (HPMS memoranda dated October 14, 2011 (''Revised Standardized Pharmacy Notice'') and December 27, 2012 (''Revised Guidance for Distribution of Standardized Pharmacy Notice'')) which clarifies that distribution of the pharmacy notice is required upon receipt of certain transaction responses indicating that the claim is not covered by Part D, as well as revised manual guidance in Chapter 18, section 40.3.1 of the Medicare Prescription Drug Benefit Manual related to operationalization of this requirement specific to a variety of specialty pharmacy settings.

In practice, we have never based distribution of or referral to the pharmacy notice on whether or not the

enrollee disagrees with information provided by the pharmacist, but rather on whether the drug in question can be provided under Part D and whether the enrollee is able to obtain coverage for the drug at the pharmacy counter. Because the existing regulation text at § 423.562(a)(3) ties delivery of the pharmacy notice to the enrollee's disagreement with information provided by the pharmacist, we proposed to remove this reference.

This proposed technical change would not alter the circumstances under which the pharmacy notice must be delivered to an enrollee and will align the regulation and the operational requirements for distribution of the pharmacy notice. In addition, this proposed change would be consistent with both the current OMB-approved instructions regarding the pharmacy notice and current CMS manual guidance.

We do not prohibit distribution of the pharmacy notice in any circumstance, so pharmacies may choose to also provide a copy of the notice in circumstances where the enrollee disagrees with the information provided (for example, if the enrollee believes they are being charged an incorrect cost-sharing amount), but the notice is not required under the standards established in § 423.128(b)(7)(iii). Provision of the pharmacy notice is not a prerequisite for an enrollee to request a coverage determination or access the appeals process. Similarly, a plan sponsor's failure to comply with the requirements of § 423.128(b)(7)(iii) or § 423.562(a)(3) does not in any way limit an enrollee's right to request a coverage determination or appeal.

We received no comments on this proposal and therefore are finalizing the proposed revision to this provision without modification.

9. MA Organization Responsibilities in Disasters and Emergencies (§ 422.100)

We proposed to add paragraph (m) to § 422.100 to codify and further clarify an MA organization's responsibilities when health plan services are affected by public health emergencies or disasters in order to ensure that beneficiaries continue to have access to care in situations in which normal business operations are disrupted due to public health emergencies or disasters and enable out-of-network providers to be informed of the terms of payment for furnishing services to affected enrollees during public health emergencies or disasters.

The proposed new paragraph would require MA organizations to ensure access, at in-network cost sharing, to covered services even when furnished by noncontracted providers when disruption in the service area impedes enrollees' ability to access contracted providers and/or contracted providers' ability to provide needed services. The new paragraph also provides the basis for determining the beginning and end of a disaster or emergency, and requires that the organization annually post on its Web site and notify enrollees and contracted providers of its disaster and emergency policies.

We received the following comments on this proposal and our response follows:

Comment: A commenter requested clarification of whether this proposed requirement applies if plan service delivery is not affected even though in a declared disaster area.

Response: Generally, a disaster creates multiple disruptions. For example, although provider offices may be operating as usual, transportation, electricity and phone service may be disrupted. Consequently, the proposed requirements would apply to all MA plans from the time the disaster is declared and continue to apply until the end of the disaster, as described in the proposed paragraph (m)(3).

Comment: Several commenters stated that the proposed revision should only apply to emergency and urgently needed services that are sought during a public health emergency or disaster.

Response: To the extent possible, we expect MA plans to provide continued and uninterrupted access to all health care services covered by the plan, whether routine or unforeseen. Disruption to a plan's network does not relieve an MA plan from fulfilling its contractual obligation to furnish all covered services to enrollees, even if it must do so by covering services furnished to its enrollees by noncontracted providers.

Comment: A commenter suggested that reduced out-of-network cost sharing be required only if contracted providers are unavailable or not accessible.

Response: Availability of networks depends on several factors—the status of provider offices, transportation, phone service, electric service, etc.—which may be impacted to varying degrees during a disaster. The primary goal during a disaster is the provision of continued and uninterrupted access of health care to all enrollees. To achieve this goal, enrollees must be allowed to obtain medically necessary plan-covered services without prior approval, at in-network cost sharing, from qualified providers, even if those providers are out-of-network.

Comment: A commenter stated that CMS should reconsider how this proposed regulation may manipulate enrollee incentives, reduce access for enrollees that need services more urgently and increase costs to MA organizations and the MA program.

Response: We recognize that disasters can create unavoidable disruptions and increased costs for MA organizations. Our primary goal during a disaster is the provision of continued and uninterrupted access to medically necessary plan-covered services for all enrollees. Our intention is to facilitate achievement of this goal by ensuring that plans facilitate increased access to providers from whom enrollees in the disaster area may seek high quality services at in-network cost sharing. We do not believe that these temporary and unusual episodes of increased access will incentivize enrollees in a negative way or result in significant cost increases for affected MA organizations.

After review of the public comments received on this proposal, we are finalizing the proposed provisions with modification. To provide for greater readability, we are finalizing paragraph (m)(1)(iii) with slight revisions to the text from the proposed version.

10. Technical Changes To Align Part C and Part D Contract Determination Appeal Provisions (§§ 422.641 and 422.644)

Sections 1857(h) and 1860D–12(b)(3)(F) of the Act describe the procedures for termination for both MA organizations and Part D Plan sponsors, respectively. These statutory provisions provide a contracting organization with an opportunity for a hearing before its contract is terminated. Appeal procedures were established under sections 1856(b)(2) and 1860D–12(b)(3) of the Act for both Part C and Part D sponsors, respectively. Sections 422.641 and 423.641 list the types of Part C and Part D contract determinations that may be appealed.

a. Technical Change (§ 422.641)

Currently in § 422.641, the contract termination is discussed in paragraph (b) and contract non-renewal is discussed in (c). Conversely, in § 423.641 the contract terminations are discussed in paragraph (c) and contract non-renewal is discussed in (b). Therefore, we proposed to align § 423.641 with the current list order for (b) and (c) in the contract determinations section at § 422.641.

b. Technical Changes (§ 422.644(a) and (b))

Sections 1857(h)(1)(B) and 1860D–12(b)(3)(F) of the Act describe the procedures for contract terminations for both MA organizations and Part D sponsors, respectively. In § 423.642(a) we specify that the notice is based upon a contract determination made ''under § 423.641.'' Therefore, since Part C and Part D language should be consistent, the same reference should be made in the corresponding Part C § 422.644(a). To remedy this, we proposed to insert ''under § 422.641'' into § 422.644(a) for Part C contract determinations.

In addition, the Part D plan sponsor language in § 423.642(b) states ''(b) The notice specifies the—(1) Reasons for the determination; and''. The corresponding Part C language in § 422.644(b) states that ''(b) The notice specifies—(1) The reasons for the determination; and''. We proposed to change § 422.644(b) by moving the word ''the'' and revising it to read ''(b) The notice specifies the—(1) Reasons for the determination; and''.

We received no comments on this proposal and therefore are finalizing these changes without modification.

11. Technical Changes To Align Parts C and D Appeal Provisions (§§ 422.660 and 423.650)

Sections 1857(h)(1)(B) and 1860D–12(b)(3)(F) of the Act provide organizations with an opportunity for a hearing before its contract is terminated in the Part C and Part D programs, respectively. Appeal procedures were established under section 1856(b)(2) of the Act for both MA organizations and Part D plan sponsors.

We proposed to replace the term ''under'' with the phrase ''in accordance with'' in § 422.660(a)(2), § 422.660(a)(3), and § 423.650(a)(2). We proposed to replace the word ''and'' with ''through'' in § 423.560(a)(4) to ensure consistency between § 422.660(a)(4) and § 423.650(a)(4). In addition, we proposed to modify § 422.660(b)(4) and § 423.650(b)(4) to add the language ''§ 422.752(a) through (b)'' and ''§ 423.752(a) through (b)'', respectively, to refer the reader to the applicable regulations for intermediate sanctions.

We received no comments on this proposal and therefore are finalizing this provision without modification.

12. Technical Change to the Restrictions on Use of Information Under Part D (§ 423.322)

We proposed a technical change to § 423.322 due to section 6402(b)(1) of the Affordable Care Act which amended section 1860D–15(f)(2) of the Act. For background, most of the payment provisions for the Part D program are found in section 1860D–15 of the Act, and as originally enacted, both subsections (d) and (f) authorized the Secretary to collect any information needed to carry out this section but also stated that information disclosed or obtained pursuant to section 1860D–15 of the Act may be used by officers, employees, and contractors of HHS only for the purposes of, and to the extent necessary in, carrying out section 1860D–15 of the Act.

Section 6402(b)(1) of the Affordable Care Act amended section 1860D–15(f)(2) of the Act to relax the limitation on the use of information that is disclosed or obtained under section 1860D–15 of the Act. Specifically, the Affordable Care Act removed the word ''only'' from subsection (f)(2)(A) and added a new subsection (ii) which states that information disclosed or obtained under section 1860D–15 of the Act may be used by officers, employees, and contractors of HHS for the purposes of, and to the extent necessary, in conducting oversight, evaluation, and enforcement under this title. Section 6402(b)(1) of the Affordable Care Act also added a new subsection (B) which states that information disclosed or obtained pursuant to section 1860D–15 of the Act may be used by the Attorney General and the Comptroller General of the United States for the purposes of, and to the extent necessary in, carrying out health oversight activities. Thus, the Affordable Care Act considerably broadened the purposes for which HHS, its contractors, and the Attorney General and Comptroller General may use such information. However, we note, that the Affordable Care Act did not change the existing restriction on the use of information under subsection (d).

In light of the Affordable Care Act amendment to section 1860D–15(f) of the Act, we proposed to make conforming changes to § 423.322.

We received no comments regarding this proposal and are finalizing the proposed amendments to this provision without modification.

13. Technical Changes to Requirements Related to Qualified Prescription Drug Coverage (§ 423.104)

In the April 15, 2010 **Federal Register** (75 FR 19711), we finalized new requirements at § 423.104 related to qualified prescription drug coverage. At that time, we codified a new paragraph, § 423.104(d)(2)(iii) stating that tiered cost sharing under (d)(2)(ii) of the same paragraph may not exceed levels annually determined by CMS to be discriminatory. In the April 15, 2011 **Federal Register** (76 FR 21432), the language at (d)(2)(iii) was inadvertently removed when making other revisions to § 423.104.

To reinstate the language that was removed, we are including a technical change to add this language back to § 423.104. This technical correction does not represent a change in policy.

14. Technical Changes to the Definition of Supplemental Benefits (§ 423.100)

In the April 12, 2012 **Federal Register** (77 FR 22169), we revised the definition of supplemental benefits at § 423.100 by defining supplemental benefits as benefits offered by Part D plans, other than employer group health or waiver plans, that meet the requirements of § 423.104(f)(1)(ii). We subsequently issued a correction notice in the June 1 2012 **Federal Register** (77 FR 32407) with unrelated changes that inadvertently resulted in the revised definition not being included in the CFR.

To address this omission, we are issuing a technical change at this time to include the definition of supplemental benefits finalized in the April 12, 2012 **Federal Register** (77 FR 22169). This technical correction does not represent a change in policy.

III. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (hereafter, ''PRA''), we are required to provide 30-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. To fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

In the January 10, 2014, proposed rule (79 FR 1917) we solicited public comment on each of the following provisions that contained information collection requirements (ICRs).

A. ICRs Related to Eligibility of Enrollment for Individuals Not Lawfully Present in the United States (§§ 417.2, 417.420, 417.422, 417.460, 422.1, 422.50, 422.74, 423.1, 423.30, and 423.44)

As amended here sections 417.2, 417.420, 417.422, 417.460, 422.1, 422.50, 422.74, 423.1, 423.30, and 423.44 set out the eligibility requirement of citizenship or lawful presence to enroll in MA, Part D, and cost plans. To implement these provisions, we will: (1) Relay data regarding an individual's lawful presence status to plans through the MARx system so that the plans will be aware of an individual's eligibility when requesting enrollment; and (2) notify plans of loss of eligibility for current members based on unlawful presence status. In this final rule, we explicitly direct MA organizations, Part D sponsors, and entities offering cost plans not to request or solicit information about lawful presence from Medicare beneficiaries in connection with this rule as CMS will provide the necessary information. This data is already available to us; thus no new data will be collected.

We received no comments on the proposed ICR assessment. Consequently, we are finalizing that assessment without modification.

B. ICRs Related to Good Cause Processes (§ § 417.460, 422.74, and 423.44)

Sections 417.460, 422.74, and 423.44 establish the ability for us to designate an entity other than CMS to implement the good cause process. If we assign the good cause process to entities operating a cost plan, MA organization, or a Part D sponsor, the plan would already have the enrollment data necessary to make the determinations required by the process. In addition, the former enrollee is already required by the applicable regulations to provide a credible statement to establish good cause for the failure to make timely payments. Thus no additional data will be collected by the plan. However, if we designate plans to implement good cause processes, there would be additional burden to each plan. The burden would consist of completing the operational process, such as—(1) responding to requests for reinstatement from former members; (2) gathering the attestation from the individual regarding his or her reason for not paying the plan premiums within the grace period; (3) making the determination as to whether the individual meets the good cause criteria; and (4) maintaining the case notes and documentation to support its determination should it need to be reviewed. As plans already provide customer service to their current and past members, we estimate 30 minutes for each reinstatement request. According to the most recent wage data provided by the Bureau of Labor Statistics (BLS) for May 2013, the mean hourly wage for the category of ''Customer Service Representatives''—which we believe, considering the common point of entry for all issues at the plan, is the most appropriate category is $16.04/hr. With fringe benefits and overhead, the rate is $23.74/hr. It is calculated that the cost for 30 minutes would be $11.87. Not all plans disenroll for nonpayment of premiums. However, for those who do implement this voluntary policy, it results in an average of 20,000 disenrollments each month. In response, we receive an average of 698 requests for reinstatement per month. The plan representative cost of $11.87 for each case is multiplied by 698 cases. Therefore, under the revised regulations, handling of these requests would result in a total monthly cost of $8,285 (or $99,423 and 4,188 hours, annually) for all plans in the MA, Part D, and cost plan programs. The requirements and burden will be submitted to OMB under control number 0938—New (CMS–10544).

We received no comments on the proposed ICR assessment. Consequently, we are finalizing this assessment with only a minor modification in order to reflect the updated 2013 wage data.

C. ICRs Related To Expanding Quality Improvement Program Regulations (§ 422.152)

We explained in the proposed rule that we do not believe this provision would impose any new or revised collection requirements or burden because it codifies a submission process that currently applies for quality improvement program information. PRA approval is current under OMB control number 0938–1023 (CMS–10209).

We received no comments on the ICRs for this proposal and are finalizing these provisions without modification.

D. ICRs Related To Changes to Audit and Inspection Authority (§§ 422.503(d)(2) and 423.504(d)(2))

In §§ 422.503(d)(2) and 423.504(d)(2), MA organizations and Part D sponsors are required to hire an independent auditor to perform validation exercises to confirm correction of deficiencies found during an audit. We currently conduct these validation exercises and collect data associated with these activities under OMB control number 0938–1000 (CMS–10191). We believe the provision will not impose any additional burden on MA organizations or Part D sponsors.

E. ICRs Related to Business Continuity for MA Organizations and PDP Sponsors (§§ 422.504(o) and 423.505(p))

This provision requires MA organizations and Part D sponsors to develop, maintain, and implement business continuity plans that meet certain minimum standards. The proposed provision was modified due to public comment. Specifically, in this final rule MA organizations and Part D sponsors plan to restore essential operations within 72, rather than 24, hours of a failure. While the cost estimates are set out under this rule's Regulatory Impact Analysis, the PRA-related burden will be made available for public comment through a separate **Federal Register** notice under OMB control number 0938–0964 (CMS–10141).

F. Submission of PRA-Related Comments

We have submitted a copy of this rule to OMB for its review of the rule's information collection and recordkeeping requirements. These requirements are not effective until they have been approved by OMB.

To obtain copies of the supporting statement and any related forms for the paperwork collections referenced above, access CMS' Web site at *http://www.cms.hhs.gov/PaperworkReductionActof1995;* email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov;* or call the Reports Clearance Office at 410–786–1326.

When commenting on the stated information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: *Mail:* OMB, Office of Information and Regulatory Affairs, *Attention:* CMS Desk Officer, *Fax:* (202) 395–5806, OR *Email: OIRA_submission@omb.eop.gov.*

PRA-related comments must be received on/by March 16, 2015.

IV. Regulatory Impact Statement

We examined the impact of this final rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act

(RFA) (September 19, 1980, Pub. L. 96–354), Section 1102(b) of the Social Security Act, Section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999) and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year).

We determined that this final rule does not reach the threshold for being considered economically significant, and thus, is not considered a major rule. There are five provisions with non-measurable impact: Efficient dispensing, requirements for drugs covered under Part D, two-year prohibition when organizations terminate their contract, requirements for urgently needed services, and MA organization responsibilities in disasters and emergencies.

Some of these provisions do not impose new requirements or costs but rather, clarify the necessary actions to meet existing regulatory requirements, and therefore, are expected to have no impact. Other provisions reflect widespread industry practices or would only impact a few plans and therefore are expected to have no, or minimal, impact.

There are three provisions with measurable impacts: Citizenship or lawful presence; audit and inspection authority; and business continuity operations. We discuss these three provisions as follows.

Citizenship or Lawful Presence. This final rule adds ''citizenship or lawful presence'' as an eligibility requirement to enroll and remain enrolled in MA, Part D, and section 1876 cost contracts to comply with section 401 of the Personal Responsibility and Work Opportunity Act, which mandates that aliens who are not lawfully present in the United States are not eligible to receive any federal benefit, including Medicare.

As indicated in the proposed rule of January 10, 2014 (79 FR 1918), based on estimates reflecting scoring by the CMS Office of the Actuary and 2012 lawful presence data provided by the SSA, this provision has an anticipated savings of $67 million over 5 years.

We estimate 10 million dollars expected savings for 2015 consisting of $5 million savings for Medicare Advantage (MA) and $5 million savings for Part D. These savings increase annually and by 2019, we estimate $17 million savings consisting of $8 million for MA and $9 million for Part D.

Audit and Inspection Authority. This rule finalizes some, but not all, proposed changes to the audit and inspection authority included in the proposed rule. We proposed two changes to §§ 422.503(d)(2) and 423.504(d)(2) that would allow CMS to require sponsors (MA organizations and Part D sponsors) to hire an independent auditor to conduct full or partial program audits of the sponsors' operational areas and/or correction validation exercises. Under the first proposal, each MA organization and/or Part D sponsor would have been required to hire an independent auditor to perform a full or partial program audit at least every 3 years. However, due to public comment, we are not finalizing this proposal.

We also proposed to revise our regulations to permit CMS to require MA organizations or Part D sponsors with audit results that reveal noncompliance with CMS requirements to hire an independent auditor to validate that correction has occurred. With our existing resources we currently conduct approximately 30 audits per year.

We received numerous comments indicating that our initial estimate was not accurate and considerably lower than the sponsors' actual costs. Based on the public comments, we revaluated our methods of estimating the sponsor costs associated with procuring an independent auditor to conduct validations and as a result we decreased: (1) The number of organizations that may be subject to a validation each year; and (2) the number of team members likely required to perform the validation exercise; and increased: (3) The estimated total cost per hour for the audit team. The estimate for 23 sponsors is closer to the maximum number of sponsors that would be expected to hire an independent auditor to validate correction of audit deficiencies that we identified. As additional organizations are subject to a CMS program audit or utilize CMS' audit protocols to perform their own internal auditing, we expect that the performance of these organizations and the industry in general will improve; this in turn will reduce the likelihood that an organization would need to hire an independent auditor to validate correction of audit deficiencies. Therefore, we expect the total number of organizations that may be required to hire an independent auditor to validate correction of audit deficiencies will decline over time.

While some sponsor audit findings can be validated through means other than a full-scale validation audit, we have found several organizations with significant performance deficiencies. We estimate that approximately 75 percent of the 30 organizations we audit per year (23 organizations) may be requested to retain an independent auditor to validate correction of their audit deficiencies.

Under these circumstances we estimated that the independent auditor hired would need to have a team consisting of the following professionals:

- Formulary and Benefits Administration—pharmacist, a senior claims analyst, and a senior auditor.
- Coverage Determinations, Part D Appeals, Part D Grievances—physician, pharmacist and senior auditor.
- Organization Determinations, Part C Appeals, Part C Grievances—physician, nurse practitioner, and senior auditor.
- Compliance Program effectiveness—two senior auditors.
- Special Needs Plan Model of Care (SNP MOC) implementation—nurse practitioner and senior auditor.

We used 2013 wage statistics supplied by the Bureau of Labor and Statistics, along with benefit and overhead included to develop estimates of direct wages. The estimated total cost per hour for each audit team is $1,202.00. A team of 13 professionals (listed previously) is necessary for the performance of each validation effort. The estimated total number of hours the team will need to perform the validation per sponsor is 80. The total cost per sponsor to procure and support the independent audit team is therefore: 80 (hours) × $1,202.00 = $96,160.00. The validation costs will be allowable costs in the plan's bid. Under existing regulations, the estimated total annual burden related to the time and effort for sponsors to perform the validation is $2,211,680.00 (23 sponsors × $96,160.00 per sponsor).

Since only 30 sponsors are audited per year and only those with the most serious findings would likely be subjected to hiring an independent auditor to conduct validation, the cost per sponsor per year is $2,211,680 ÷ 193 (unique parent organizations) = $11,459 per year. The number 193 represents the 193 unique parent organizations as of June 2014. This figure includes all coordinated care plans (CCPs), private fee for service (PFFS) plans, section

1876 Medicare cost plans whose parent organizations also have an MA or Part D plan, stand-alone prescription drug plans (PDPs), and employer group waiver plans (800 series). Sponsors will be allowed to account for this cost in their bid.

Business Continuity. Commenters in general took issue with the costs associated with the proposal for Business Continuity for MA organizations and Part D Sponsors (§§ 422.504(o) and 423.505(p)). Several commenters suggested that our RIA significantly underestimated costs because requiring MA organizations and Part D sponsors to restore essential functions within 24 hours would necessitate systems redundancy. Other commenters were concerned about the cost of testing IT systems on an annual basis; another commenter questioned the need to train ''all'' employees.

As detailed in section II.A.4. of this final rule (Business Continuity for MA organizations and Part D Sponsors (§§ 422.504(o) and 423.505(p)), we believe that the modifications to regulatory text that we are finalizing in this final rule, as well as clarifications provided in our responses (for instance, we are not requiring systems redundancy), address the vast majority of concerns raised about the RIA.

Business continuity plans are well established in the business community, and we believe that most MA organizations and Part D sponsors already have business continuity plans in place which cover the basic proposed subject areas. We still estimate that 5 percent of MA organizations and Part D sponsors do not have business continuity plans, but are updating our estimates from our proposed rule to reflect the most recent data available. For 2015, there are 568 MA organizations and Part D sponsors, resulting in an estimated 28 (5 percent × 568) affected entities. More recent May 2013 wage data from the BLS OES sets the hourly rate for an emergency management director, General Medical and Surgical Hospitals, at $36.90. We now estimate the first year burden of a full time emergency management director to help design the plan to be 58,240 hours (28 entities × 2,080 hours). The estimated cost associated with such an expert is the estimated number of hours multiplied by the estimated hourly rate of $36.90, plus 100 percent for fringe benefits and overhead, which equals a first year estimated cost of $4,298,112.

In subsequent years, the estimated burden associated with this requirement will be the cost of an emergency management director working on a part time basis for an ongoing burden of 29,120 hours (28 entities × 1,040 hours). The estimated cost associated with such an expert would be the estimated number of hours multiplied by the estimated hourly rate of $36.90 plus 100 percent for fringe benefits and overhead, which equals an estimated annual cost of $2,149,056 for subsequent years.

Additionally, as discussed in section II.A.4. of this final rule, we agree with the commenters that the regulation may require some changes, which we believe are minimal, to existing business continuity plans and are adding estimates to cover those costs. We estimate that an additional 10 percent of the 568 contracting entities, or about 57 entities, will be affected by this requirement. This means the estimated first year burden of a part time emergency management director to conform the existing business continuity plans will be 59,280 hours (57 entities × 1,040 hours). The estimated cost associated with such an expert is the estimated number of hours multiplied by the estimated hourly rate of $36.90 plus 100 percent for fringe benefits and overhead, which equals a first year estimated cost of $4,373,864.

In subsequent years, we estimate the burden associated with this requirement for MA organizations and Part D sponsors that are continuing to conform their business continuity plans with our regulation will decrease, for an ongoing burden of 29,640 hours (57 entities × 520 hours). The estimated cost associated with such an expert is the estimated number of hours multiplied by the estimated hourly rate of $36.90 plus 100 percent for fringe benefits and overhead, which equals a first year cost of $2,187,432.

Lastly, as previously discussed in our summary of the proposed effects, we believe that savings that we cannot capture will be realized by this regulation, especially for those MA organizations and Part D sponsors that do not currently have business continuity plans in place. Business continuity planning helps to protect resources and minimize losses. If as a consequence, MA organizations and Part D sponsors, that currently do not have these plans in place, provide Medicare benefits more efficiently after disasters and disruptions, this could result in fewer risks to beneficiary health.

Our analyses of the three provisions with measurable impact—unlawful presence, audit and inspection authority and business continuity operations—show that aggregate savings over 5 years is $33 million. Estimated savings for 2015 is $0 million and the savings increase annually to $11 million for 2019. Consequently, the savings do not reach the $100 million threshold and therefore this final rule is not a major rule.

The Regulatory Flexibility Analysis (RFA), as amended, requires agencies to analyze options for regulatory relief of small businesses, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions.

The health insurance industry was examined in depth in the RIA prepared for the proposed rule on establishment of the MA program (69 FR 46866, August 3, 2004). It was determined, in that analysis, that there were few, if any, ''insurance firms,'' including HMOs that fell below the size thresholds for ''small'' business established by the Small Business Administration (SBA). We assume that the ''insurance firms'' are synonymous with health plans that conduct standard transactions with other covered entities and are, therefore, the entities that will have costs associated with the new requirements finalized in this rule. At the time the analysis for the MA program was conducted, the market for health insurance was and remains, dominated by a handful of firms with substantial market share.

However, we estimate that the costs of this rule on ''small'' health plans do not approach the amounts necessary to be a ''significant economic impact'' on firms with revenues of tens of millions of dollars. Therefore, this rule would not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory analysis for any rule or regulation proposed under Title XVIII, Title XIX, or Part B of the Act that may have significant impact on the operations of a substantial number of small rural hospitals. We are not preparing an analysis for section 1102(b) of the Act because the Secretary certifies that this rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year by state, local, or tribal governments, in the aggregate, or by the private sector of $100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold is approximately $141

million. This final rule is not expected to reach this spending threshold.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has federalism implications. Since this rule does not impose any substantial costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this rule was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 417

Administrative practice and procedure, Grant programs-health, Health care, Health insurance, Health maintenance organizations (HMO), Loan programs-health, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 422

Administrative practice and procedure, Health facilities, Health maintenance organizations (HMO), Medicare, Penalties, Privacy, Reporting and recordkeeping requirements.

42 CFR Part 423

Administrative practice and procedure, Emergency medical services, Health facilities, Health maintenance organizations (HMO), Health professionals, Medicare, Penalties, Privacy, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR Chapter IV as follows:

PART 417—HEALTH MAINTENANCE ORGANIZATION, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS

■ 1. The authority citation for part 417 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh), secs. 1301, 1306, and 1310 of the Public Health Service Act (42 U.S.C. 300e, 300e-5, and 300e-9), and 31 U.S.C. 9701.

■ 2. Amend § 417.2 by revising paragraph (b) to read as follows:

§ 417.2 Basis and scope.

* * * * *

(b) Subparts G through R of this part set forth the rules for Medicare contracts with, and payment to, HMOs and competitive medical plans (CMPs) under section 1876 of the Act and 8 U.S.C. 1611.

* * * * *

§ 417.420 [Amended]

■ 3. Amend § 417.420, paragraph (a) by removing the phrase ''Individuals who are entitled to'' and adding in its place the phrase ''Eligible individuals who are entitled to''.

■ 4. Amend § 417.422 as follows:

■ a. In the introductory text, by removing the phrase ''any individual who—'' and adding in its place the phrase ''any individual who meets all of the following:''

■ b. In paragraphs (a) through (e), by removing the ''; '' and adding in its place ''.''.

■ c. In paragraph (f), by removing the ''; and'' and adding in its place ''.''.

■ d. Adding paragraph (h).

The addition reads as follows:

§ 417.422 Eligibility to enroll in an HMO or CMP.

* * * * *

(h) Is a United States citizen or an individual who is lawfully present in the United States as determined in 8 CFR 1.3.

■ 5. Amend § 417.460 as follows:

■ a. In paragraph (b)(2)(i) by removing ''.'' and adding in its place ''; ''.

■ b. In paragraph (b)(2)(iii) by removing ''; or'' and adding in its place ''; ''.

■ c. Redesignating paragraph (b)(2)(iv) as paragraph (b)(2)(v).

■ d. Adding a new paragraph (b)(2)(iv).

■ e. In paragraph (b)(3), by removing the cross-reference ''paragraphs (c) through (i)'' and adding in its place the cross-reference ''paragraphs (c) through (j)''.

■ f. By revising paragraph (c)(3).

■ g. In paragraph (c)(4), by removing the phrase ''non-payment of premiums.'' and adding in its place the phrase ''non-payment of premiums or other charges.''

■ h. By adding paragraph (j).

The revisions and the additions read as follows:

§ 417.460 Disenrollment of beneficiaries by an HMO or CMP.

* * * * *

(b) * * *

(2) * * *

(iv) Is not lawfully present in the United States; or

* * * * *

(c) * * *

(3) *Good cause and reinstatement.* When an individual is disenrolled for failure to pay premiums or other charges imposed by the HMO or CMP for deductible and coinsurance amounts for which the enrollee is liable, CMS (or a third party to which CMS has assigned this responsibility, such as an HMO or CMP) may reinstate enrollment in the plan, without interruption of coverage, if the individual shows good cause for failure to pay and pays all overdue premiums or other charges within 3 calendar months after the disenrollment date. The individual must establish by a credible statement that failure to pay premiums or other charges was due to circumstances for which the individual had no control, or which the individual could not reasonably have been expected to foresee.

* * * * *

(j) *Enrollee is not lawfully present in the United States.* Disenrollment is effective the first day of the month following notice by CMS that the individual is ineligible in accordance with § 417.422(h).

PART 422—MEDICARE ADVANTAGE PROGRAM

■ 6. The authority citation for part 422 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

■ 7. Amend § 422.1 by revising paragraph (a) to read as follows:

§ 422.1 Basis and scope.

(a) *Basis.* This part is based on the indicated provisions of the following:

(1) The following provisions of the Act:

(i) 1128J(d)—Reporting and Returning of Overpayments.

(ii) 1851—Eligibility, election, and enrollment.

(iii) 1852—Benefits and beneficiary protections.

(iv) 1853—Payments to Medicare Advantage (MA) organizations.

(v) 1854—Premiums.

(vi) 1855—Organization, licensure, and solvency of MA organizations.

(vii) 1856—Standards.

(viii) 1857—Contract requirements.

(ix) 1858—Special rules for MA Regional Plans.

(x) 1859—Definitions; enrollment restriction for certain MA plans.

(2) 8 U.S.C. 1611—Aliens who are not qualified aliens ineligible for Federal public benefits.

* * * * *

■ 8. Amend § 422.50 as follows:

■ a. In paragraph (a) introductory text, by removing the phrase '' if he or she—'' and adding in its place the phrase ''if he or she meets all of the following:''

■ b. In paragraphs (a)(1) and (4), by removing ''; '' and adding in its place ''.''.

■ c. In paragraph (a)(5), by removing ''; and'' and adding in its place ''.''.
■ d. By adding paragraph (a)(7).
The addition reads as follows:

§ 422.50 Eligibility to elect an MA plan.

* * * * *

(a) * * *

(7) Is a United States citizen or is lawfully present in the United States as determined in 8 CFR 1.3.

* * * * *

■ 9. Amend § 422.74 as follows:
■ a. By adding paragraph (b)(2)(v).
■ b. By revising paragraph (d)(1)(v).
■ c. By adding paragraph (d)(8).
The additions and revision read as follows:

§ 422.74 Disenrollment by the MA organization.

* * * * *

(b) * * *

(2) * * *

(v) The individual is not lawfully present in the United States.

* * * * *

(d) * * *

(1) * * *

(v) *Extension of grace period for good cause and reinstatement.* When an individual is disenrolled for failure to pay the plan premium, CMS (or a third party to which CMS has assigned this responsibility, such as an MA organization) may reinstate enrollment in the MA plan, without interruption of coverage, if the individual—

(A) Shows good cause for failure to pay within the initial grace period; and

(B) Pays all overdue premiums within 3 calendar months after the disenrollment date; and

(C) Establishes by a credible statement that failure to pay premiums within the initial grace period was due to circumstances for which the individual had no control, or which the individual could not reasonably have been expected to foresee.

* * * * *

(8) *Enrollee is not lawfully present in the United States.* Disenrollment is effective the first day of the month following notice by CMS that the individual is ineligible in accordance with § 417.422(h) of this chapter.

* * * * *

■ 10. Amend § 422.100 by adding paragraph (m) to read as follows:

§ 422.100 General requirements.

* * * * *

(m) *Special requirements during a disaster or emergency.* (1) When a state of disaster is declared as described in paragraph (m)(2) of this section, an MA organization offering an MA plan must, until one of the conditions described in paragraph (m)(3) of this section occurs, ensure access to benefits in the following manner:

(i) Cover Medicare Parts A and B services and supplemental Part C plan benefits furnished at non-contracted facilities subject to § 422.204(b)(3).

(ii) Waive, in full, requirements for gatekeeper referrals where applicable.

(iii) Provide the same cost-sharing for the enrollee as if the service or benefit had been furnished at a plan-contracted facility.

(iv) Make changes that benefit the enrollee effective immediately without the 30-day notification requirement at § 422.111(d)(3).

(2) *Declarations of disasters.* A declaration of disaster will identify the geographic area affected by the event and may be made as one of the following:

(i) Presidential declaration of a disaster or emergency under the either of the following:

(A) Stafford Act.

(B) National Emergencies Act.

(ii)(A) Secretarial declaration of a public health emergency under section 319 of the Public Health Service Act.

(B) If the President has declared a disaster as described in paragraph (m)(2)(i) or (ii) of this section, then the Secretary may also authorize waivers or modifications under section 1135 of the Act.

(iii) Declaration by the Governor of a State or Protectorate.

(3) *End of the disaster.* The public health emergency or state of disaster ends when any of the following occur:

(i) The source that declared the public health emergency or state of disaster declares an end.

(ii) The CMS declares an end of the public health emergency or state of disaster.

(iii) Thirty days have elapsed since the declaration of the public health emergency or state of disaster and no end date was identified in paragraph (m)(3)(i) or (ii) of this section.

(4) *MA plans unable to operate.* An MA plan that cannot resume normal operations by the end of the public health emergency or state of disaster must notify CMS.

(5) *Disclosure.* In addition to other requirements of annual disclosure under § 422.111, an organization must do all of the following:

(i) Indicate the terms and conditions of payment during the public health emergency or disaster for non-contracted providers furnishing benefits to plan enrollees residing in the state-of-disaster area.

(ii) Annually notify enrollees of the information listed in paragraphs (m)(1) through (3) and (m)(5) of this section.

(iii) Provide the information described in paragraphs (m)(1), (2), (3), and (4)(i) of this section on its Web site.

■ 11. Amend § 422.111 by revising paragraph (d)(1) to read as follows:

§ 422.111 Disclosure requirements.

* * * * *

(d) * * *

(1) Submit the changes for CMS review under procedures of subpart V of this part.

* * * * *

■ 12. Amend § 422.112 by adding paragraph (b)(7) to read as follows:

§ 422.112 Access to services.

* * * * *

(b) * * *

(7) With respect to drugs for which payment as so prescribed and dispensed or administered to an individual may be available under Part A or Part B, or under Part D, MA–PD plans must coordinate all benefits administered by the plan and—

(i) Establish and maintain a process to ensure timely and accurate point-of-sale transactions; and

(ii) Issue the determination and authorize or provide the benefit under Part A or Part B or as a benefit under Part D as expeditiously as the enrollee's health condition requires, in accordance with the requirements of subpart M of this part and subpart M of part 423 of this chapter, as appropriate, when a party requests a coverage determination.

* * * * *

■ 13. Amend § 422.113 by revising paragraph (b)(1)(iii) introductory text to read as follows:

§ 422.113 Special rules for ambulance services, emergency and urgently needed services, and maintenance and post-stabilization care services.

* * * * *

(b) * * *

(1) * * *

(iii) *Urgently needed services* means covered services that are not emergency services as defined in this section, provided when an enrollee is temporarily absent from the MA plan's service (or, if applicable, continuation) area (or provided when the enrollee is in the service or continuation area but the organization's provider network is temporarily unavailable or inaccessible) when the services are medically necessary and immediately required—

* * * * *

■ 14. Amend § 422.152 as follows:
■ a. Revising paragraph (a) introductory text.

■ b. Redesignating paragraphs (a)(1) through (3) as paragraphs (a)(2) through (4), respectively.
■ c. Adding new paragraph (a)(1).
■ d. In newly redesignated (a)(2), by removing the ''; '' and adding a ''.''.
■ e. In newly redesignated (a)(3), by removing the ''; and'' and adding a ''.''.
■ f. Revising paragraph (c).
■ g. Revising paragraph (g) introductory text.
■ h. Revising paragraph (h).

The revisions and addition read as follows:

§ 422.152 Quality improvement program.

(a) *General rule.* Each MA organization that offers one or more MA plan must have, for each plan, an ongoing quality improvement program that meets applicable requirements of this section for the service it furnishes to its MA enrollees. As part of its ongoing quality improvement program, a plan must do all of the following:

(1) Create a quality improvement program plan that sufficiently outlines the elements of the plan's quality improvement program.

* * * * *

(c) *Chronic care improvement program requirements.* (1) Develop criteria for a chronic care improvement program. These criteria must include the following:

(i) Methods for identifying MA enrollees with multiple or sufficiently severe chronic conditions that would benefit from participating in a chronic care improvement program.

(ii) Mechanisms for monitoring MA enrollees that are participating in the chronic improvement program and evaluating participant outcomes such as changes in health status.

(iii) Performance assessments that use quality indicators that are objective, clearly and unambiguously defined, and based on current clinical knowledge or research.

(iv) Systematic and ongoing follow-up on the effect of the program.

(2) The organization must report the status and results of each program to CMS as requested.

* * * * *

(g) *Special requirements for specialized MA plans for special needs individuals.* All special needs plans (SNPs) must be approved by the National Committee for Quality Assurance (NCQA) effective January 1, 2012 and subsequent years. SNPs must submit their model of care (MOC), as defined under § 422.101(f), to CMS for NCQA evaluation and approval, in accordance with CMS guidance. In addition to the requirements under paragraphs (a) and (f) of this section, a SNP must conduct a quality improvement program that does the following:

* * * * *

(h) *Requirements for MA private-fee-for-service plans and Medicare medical savings account plans.* MA PFFS and MSA plans are subject to the requirement that may not exceed the requirement specified in § 422.152(e).

■ 15. Amend § 422.310 by revising paragraph (g)(2)(ii) to read as follows:

§ 422.310 Risk adjustment data.

* * * * *

(g) * * *

(2) * * *

(ii) After the final risk adjustment data submission deadline, which is a date announced by CMS that is no earlier than January 31 of the year following the payment year, an MA organization can submit data to correct overpayments but cannot submit diagnoses for additional payment.

* * * * *

§ 422.502 [Amended]

■ 16. Amend § 422.502(b)(3) by removing the phrase ''CMS may deny an application based on the applicant's'' and adding in its place the phrase ''CMS may deny an application for a new contract or service area expansion based on the applicant's''.

■ 17. Amend § 422.503 by adding paragraph (d)(2)(iv) to read as follows:

§ 422.503 General provisions.

* * * * *

(d) * * *

(2) * * *

(iv) CMS may require that the MA organization hire an independent auditor to provide CMS with additional information to determine if deficiencies found during an audit or inspection have been corrected and are not likely to recur. The independent auditor must work in accordance with CMS specifications and must be willing to attest that a complete and full independent review has been performed.

* * * * *

■ 18. Amend § 422.504 by adding paragraph (o) to read as follows:

§ 422.504 Contract provisions.

* * * * *

(o) *Business continuity.* (1) The MA organization agrees to develop, maintain, and implement a business continuity plan containing policies and procedures to ensure the restoration of business operations following disruptions to business operations which would include natural or man-made disasters, system failures, emergencies, and other similar circumstances and the threat of such occurrences. To meet the requirement, the business continuity plan must, at a minimum, include the following:

(i) *Risk assessment.* Identify threats and vulnerabilities that might affect business operations.

(ii) *Mitigation strategy.* Design strategies to mitigate hazards. Identify essential functions in addition to those specified in paragraph (o)(2) of this section and prioritize the order in which to restore all other functions to normal operations. At a minimum, each MA organization must do the following:

(A) Identify specific events that will activate the business continuity plan.

(B) Develop a contingency plan to maintain, during any business disruption, the availability and, as applicable, confidentiality of communication systems and essential records in all forms (including electronic and paper copies). The contingency plan must do the following:

(*1*) Ensure that during any business disruption the following systems will operate continuously or, should they fail, be restored to operational capacity on a timely basis:

(*i*) Information technology (IT) systems including those supporting claims processing at point of service.

(*ii*) Provider and enrollee communication systems including telephone, Web site, and email.

(*2*) With respect to electronic protected health information, comply with the contingency plan requirements of the Health Insurance Portability and Accountability Act of 1996 Security Regulations at 45 CFR parts 160 and 164, subparts A and C.

(C) Establish a chain of command.

(D) Establish a business communication plan that includes emergency capabilities and procedures to contact and communicate with the following:

(*1*) Employees.

(*2*) First tier, downstream, and related entities.

(*3*) Other third parties (including pharmacies, providers, suppliers, and government and emergency management officials).

(E) Establish employee and facility management plans to ensure that essential operations and job responsibilities can be assumed by other employees or moved to alternate sites as necessary.

(F) Establish a restoration plan including procedures to transition to normal operations.

(G) Comply with all applicable Federal, State, and local laws.

(iii) *Testing and revision.* On at least an annual basis, test and update the business operations continuity plan to ensure the following:

(A) That it can be implemented in emergency situations.

(B) That employees understand how it is to be executed.

(iv) *Training.* On at least an annual basis, educate appropriate employees about the business continuity plan and their own respective roles.

(v) *Records.* (A) Develop and maintain records documenting the elements of the business continuity plan described in paragraphs (o)(1)(i) through (iv) of this section.

(B) Make the information specified in paragraph (o)(1)(v)(A) of this section available to CMS upon request.

(2) *Restoration of essential functions.* Every MA organization must plan to restore essential functions within 72 hours after any of the essential functions fail or otherwise stop functioning as usual. In addition to any essential functions that the MA organization identifies under paragraph (o)(1)(ii) of this section, for purposes of this paragraph (o)(2) of the section essential functions include, at a minimum, the following:

(i) Benefit authorization (if not waived) for services to be immediately furnished at a hospital, clinic, provider office, or other place of service.

(ii) Operation of call center customer services.

■ 19. Amend § 422.506 by revising paragraph (a)(4) to read as follows:

§ 422.506 Nonrenewal of contract.

(a) * * *

(4) If an MA organization does not renew a contract under paragraph (a) of this section, CMS may deny an application for a new contract or a service area expansion from the MA organization for 2 years unless there are circumstances that warrant special consideration, as determined by CMS. This prohibition may apply regardless of the product type, contract type or service area of the previous contract.

* * * * *

■ 20. Amend § 422.508 by revising paragraph (c) to read as follows:

§ 422.508 Modification or termination of contract by mutual consent.

* * * * *

(c) *Agreement to limit new MA applications.* As a condition of the consent to a mutual termination CMS will require, as a provision of the termination agreement language prohibiting the MA organization from applying for new contracts or service area expansions for a period of 2 years, absent circumstances warranting special consideration. This prohibition may apply regardless of the product type, contract type or service area of the previous contract.

* * * * *

■ 21. Amend § 422.512 by revising paragraph (e)(1) to read as follows:

§ 422.512 Termination of contract by the MA organization.

* * * * *

(e) * * *

(1) CMS may deny an application for a new contract or a service area expansion from an MA organization that has terminated its contract within the preceding 2 years unless there are circumstances that warrant special consideration, as determined by CMS. This prohibition may apply regardless of the contract type, product type, or service area of the previous contract.

* * * * *

■ 22. Amend § 422.568 by revising paragraph (b) to read as follows:

§ 422.568 Standard timeframes and notice requirements for organization determinations.

* * * * *

(b) *Timeframe for requests for service.* Except as provided in paragraph (b)(1) of this section, when a party has made a request for a service, the MA organization must notify the enrollee of its determination as expeditiously as the enrollee's health condition requires, but no later than 14 calendar days after the date the organization receives the request for a standard organization determination.

(1) *Extensions.* The MA organization may extend the timeframe by up to 14 calendar days if—

(i) The enrollee requests the extension;

(ii) The extension is justified and in the enrollee's interest due to the need for additional medical evidence from a noncontract provider that may change an MA organization's decision to deny an item or service; or

(iii) The extension is justified due to extraordinary, exigent, or other non-routine circumstances and is in the enrollee's interest.

(2) *Notice of extension.* When the MA organization extends the timeframe, it must notify the enrollee in writing of the reasons for the delay, and inform the enrollee of the right to file an expedited grievance if he or she disagrees with the MA organization's decision to grant an extension. The MA organization must notify the enrollee of its determination as expeditiously as the enrollee's health condition requires, but no later than upon expiration of the extension.

* * * * *

■ 23. Amend § 422.572 by revising paragraph (b) to read as follows:

§ 422.572 Timeframes and notice requirements for expedited organization determinations.

* * * * *

(b) *Extensions.* (1) The MA organization may extend the 72-hour deadline by up to 14 calendar days if—

(i) The enrollee requests the extension;

(ii) The extension is justified and in the enrollee's interest due to the need for additional medical evidence from a noncontract provider that may change an MA organization's decision to deny an item or service; or

(iii) The extension is justified due to extraordinary, exigent, or other nonroutine circumstances and is in the enrollee's interest.

(2) *Notice of extension.* When the MA organization extends the deadline, it must notify the enrollee in writing of the reasons for the delay and inform the enrollee of the right to file an expedited grievance if he or she disagrees with the MA organization's decision to grant an extension. The MA organization must notify the enrollee of its determination as expeditiously as the enrollee's health condition requires, but no later than upon expiration of the extension.

* * * * *

■ 24. Amend § 422.590 as follows:

■ a. By revising paragraph (a)(1).

■ b. In paragraph (d)(1), by removing the cross reference ''paragraph (d)(2) of this section'' and adding in its place the cross-reference ''paragraph (e) of this section''.

■ c. By removing paragraph (d)(2).

■ d. By redesignating paragraphs (d)(3) through (5) as paragraphs (d)(2) through (4), respectively.

■ e. By redesignating paragraphs (e) through (g) as paragraphs (f) through (h), respectively;

■ f. By adding paragraph (e).

The addition and revision read as follows:

§ 422.590 Timeframes and responsibility for reconsiderations.

(a) * * *

(1) Except as provided in paragraph (e) of this section, if the MA organization makes a reconsidered determination that is completely favorable to the enrollee, the MA organization must issue the determination (and effectuate it in accordance with § 422.618(a)) as expeditiously as the enrollee's health condition requires, but no later than 30

calendar days from the date it receives the request for a standard reconsideration.

* * * * *

(e) *Extensions.* (1) As described in paragraphs (e)(1)(i) through (iii) of this section, the MA organization may extend the standard or expedited reconsideration deadline by up to 14 calendar days if—

(i) The enrollee requests the extension; or

(ii) The extension is justified and in the enrollee's interest due to the need for additional medical evidence from a noncontract provider that may change an MA organization's decision to deny an item or service; or

(iii) The extension is justified due to extraordinary, exigent or other non-routine circumstances and is in the enrollee's interest.

(2) *Notice of extension.* When the MA organization extends the deadline, it must notify the enrollee in writing of the reasons for the delay and inform the enrollee of the right to file an expedited grievance if he or she disagrees with the MA organization's decision to grant an extension. The MA organization must notify the enrollee of its determination as expeditiously as the enrollee's health condition requires, but no later than upon expiration of the extension.

* * * * *

§ 422.618 [Amended]

■ 25. In § 422.618, amend paragraph (a)(1) by removing the cross-reference ''§ 422.590(a)(1)'' and adding in its place the cross-reference ''§ 422.590(e)''.

§ 422.619 [Amended]

■ 26. In § 422.619, amend paragraph (a) by removing the cross-reference ''§ 422.590(d)(2)'' and adding in its place the cross-reference ''§ 422.590(e)''.

■ 27. Amend § 422.641 by revising paragraphs (b) and (c) to read as follows:

§ 422.641 Contract determinations.

* * * * *

(b) A determination not to authorize a renewal of a contract with an MA organization in accordance with § 422.506(b).

(c) A determination to terminate a contract with an MA organization in accordance with § 422.510(a).

* * * * *

■ 28. Amend § 422.644 by revising paragraphs (a), (b)(1), and (c)(1) to read as follows:

§ 422.644 Notice of contract determination.

* * * * *

(a) When CMS makes a contract determination under § 422.641, it gives the MA organization written notice.

(b) * * *

(1) Reasons for the determination; and

* * * * *

(c) * * *

(1) *General rule.* Except as provided in paragraph (c)(2) of this section, CMS mails notice to the MA organization 45 calendar days before the anticipated effective date of the termination.

* * * * *

■ 29. Amend § 422.660 by revising paragraphs (a)(2) and (3) and (b)(4) to read as follows:

§ 422.660 Right to a hearing, burden of proof, standard of proof, and standards of review.

(a) * * *

(2) An MA organization whose contract has been terminated in accordance with § 422.510.

(3) An MA organization whose contract has not been renewed in accordance with § 422.506.

* * * * *

(b) * * *

(4) During a hearing to review the imposition of an intermediate sanction as described at § 422.750, the MA organization has the burden of proving by a preponderance of the evidence that CMS' determination was inconsistent with the requirements of § 422.752(a) and (b).

* * * * *

■ 30. Amend § 422.2262 by adding paragraph (a)(2) to read as follows:

§ 422.2262 Review and distribution of marketing materials.

(a) * * *

(2) If CMS does not approve or disapprove marketing materials within the specified review timeframe, the materials will be deemed approved. Deemed approved means that the MA organization may use the material.

* * * * *

§ 422.2266 [Removed and Reserved]

■ 31. Section 422.2266 is removed and reserved.

■ 32. Amend § 422.2274 by revising paragraphs (c) and (d) to read as follows:

§ 422.2274 Broker and agent requirements.

* * * * *

(c) *Annual training.* The MA organization must ensure that all agents and brokers selling Medicare products are trained annually on the following:

(1) Medicare rules and regulations.

(2) Details specific to the plan products they intend to sell.

(d) *Annual testing.* It must ensure that all agents and brokers selling Medicare products are tested annually, to ensure the following:

(1) Appropriate knowledge and understanding of Medicare rules and regulations.

(2) Details specific to the plan products they intend to sell.

* * * * *

PART 423—VOLUNTARY MEDICARE PRESCRIPTION DRUG BENEFIT

■ 33. The authority citation for part 423 continues to read as follows:

Authority: Sections 1102, 1106, 1860D–1 through 1860D–42, and 1871 of the Social Security Act (42 U.S.C. 1302, 1306, 1395w–101 through 1395w–152, and 1395hh).

■ 34. Amend § 423.1 by adding paragraph (a)(3) to read as follows:

§ 423.1 Basis and scope.

(a) * * *

(3) Section 1611 of Title 8 of the United States Code regarding individuals who are not lawfully present and ineligible for Federal public benefits.

* * * * *

■ 35. Amend § 423.30 as follows:

■ a. In paragraph (a)(1) introductory text, by removing the phrase ''if he or she:'' and adding in its place the phrase ''if he or she does all of the following:''.

■ b. In paragraph (a)(1)(i), by removing ''; and'' and adding in its place ''.''.

■ c. By adding paragraph (a)(1)(iii).

The addition reads as follows:

§ 423.30 Eligibility and enrollment.

(a) * * *

(1) * * *

(iii) Is a United States citizen or is lawfully present in the United States as determined in 8 CFR 1.3.

* * * * *

■ 36. Amend § 423.44 as follows:

■ a. Adding paragraph (b)(2)(vi).

■ b. Revising paragraph (d)(1)(vi).

■ c. Adding paragraph (d)(8).

The additions and revision read as follows:

§ 423.44 Involuntary disenrollment from Part D coverage.

* * * * *

(b) * * *

(2) * * *

(vi) The individual is not lawfully present in the United States.

* * * * *

(d) * * *

(1) * * *

(vi) *Extension of grace period for good cause and reinstatement.* When an individual is disenrolled for failure to pay the plan premium, CMS (or a third party to which CMS has assigned this responsibility, such as a Part D sponsor) may reinstate enrollment in the PDP,

without interruption of coverage, if the individual shows good cause for failure to pay within the initial grace period, and pays all overdue premiums within 3 calendar months after the disenrollment date. The individual must establish by a credible statement that failure to pay premiums within the initial grace period was due to circumstances for which the individual had no control, or which the individual could not reasonably have been expected to foresee.

* * * * *

(8) *Individual is not lawfully present in the United States.* Disenrollment is effective the first day of the month following notice by CMS that the individual is ineligible in accordance with § 423.30(a)(1)(iii).

* * * * *

■ 37. Amend § 423.100 by revising the definitions of ''Daily cost-sharing rate'' and ''Supplemental benefits'' to read as follows:

§ 423.100 Definitions.

* * * * *

Daily cost-sharing rate means, as applicable, the established—

(1) Monthly copayment under the enrollee's Part D plan, divided by the number of days in the approved month's supply for the drug dispensed and rounded to the nearest cent; or

(2) Coinsurance percentage under the enrollee's Part D plan.

* * * * *

Supplemental benefits means benefits offered by Part D plans, other than employer group health or waiver plans, that meet the requirements of § 423.104(f)(1)(ii).

* * * * *

■ 38. Amend § 423.104 by adding paragraph (d)(2)(iii) to read as follows:

§ 423.104 Requirements related to qualified prescription drug coverage.

* * * * *

(d) * * *

(2) * * *

(iii) Tiered cost sharing under paragraph (d)(2)(ii) of this section may not exceed levels annually determined by CMS to be discriminatory.

* * * * *

■ 39. Amend § 423.120 by redesignating paragraphs (b)(1)(iv) through (x) as paragraphs (b)(1)(v) through (xi), respectively, and adding paragraph (b)(1)(iv) to read as follows:

§ 423.120 Access to covered Part D drugs.

* * * * *

(b) * * *

(1) * * *

(iv) Clearly articulates and documents processes to determine that the requirements under paragraphs (b)(1)(i) through (iii) of this section have been met, including the determination by an objective party of whether disclosed financial interests are conflicts of interest and the management of any recusals due to such conflicts.

* * * * *

■ 40. Amend § 423.128 by adding paragraph (g) to read as follows:

§ 423.128 Dissemination of Part D information.

* * * * *

(g) *Changes in rules.* If a Part D sponsor intends to change its rules for a Part D plan, it must do all of the following:

(1) Submit the changes for CMS review under the procedures of Subpart V of this part.

(2) For changes that take effect on January 1, notify all enrollees at least 15 days before the beginning of the Annual Coordinated Election Period as defined in section 1860D–1(b)(1)(B) of the Act.

(3) Provide notice of all other changes in accordance with notice requirements as specified in this part.

■ 41. Amend § 423.153 by revising paragraph (b)(4) to read as follows:

§ 423.153 Drug utilization management, quality assurance, and medication therapy management programs (MTMPs).

* * * * *

(b) * * *

(4)(i) *Daily cost sharing rate.* Subject to paragraph (b)(4)(ii) of this section, establishes a daily cost-sharing rate (as defined in § 423.100) and applies it to a prescription presented to a network pharmacy for a covered Part D drug that is dispensed for a supply less than the approved month's supply, if the drug is in the form of a solid oral dose and may be dispensed for less than the approved month's supply under applicable law.

(ii) *Exceptions.* The requirements of paragraph (b)(4)(i) of this section do not apply to either of the following:

(A) Solid oral doses of antibiotics.

(B) Solid oral doses that are dispensed in their original container as indicated in the Food and Drug Administration Prescribing Information or are customarily dispensed in their original packaging to assist patients with compliance.

(iii) *Cost-sharing*—(A) *Copayments.* In the case of a drug that would incur a copayment, the Part D sponsor must apply cost-sharing as calculated by multiplying the applicable daily cost-sharing rate by the days' supply actually dispensed when the beneficiary receives less than the approved month's supply.

(B) *Coinsurance.* In the case of a drug that would incur a coinsurance percentage, the Part D sponsor must apply the coinsurance percentage for the drug to the days' supply actually dispensed.

* * * * *

■ 42. Amend § 423.154 as follows:

■ a. By redesignating paragraph (a)(2) as paragraph (a)(4).

■ b. By adding paragraphs (a)(2) and (3).

■ c. By revising newly designated paragraph (a)(4).

■ d. By revising paragraph (c).

■ e. By removing paragraph (e).

■ f. By redesignating paragraph (f) as paragraph (e).

The revisions and addition read as follows:

§ 423.154 Appropriate dispensing of prescription drugs in long-term care facilities under PDPs and MA–PD plans.

(a) * * *

(2) Not penalize long-term care facilities' choice of more efficient uniform dispensing techniques described in paragraph (a)(1)(ii) of this section by prorating dispensing fees based on days' supply or quantity dispensed.

(3) Ensure that any difference in payment methodology among long-term care pharmacies incentivizes more efficient dispensing techniques.

(4) Collect and report information, in a form and manner specified by CMS, on the dispensing methodology used for each dispensing event described by paragraph (a)(1) of this section.

* * * * *

(c) *Waivers.* CMS waives the requirements under paragraph (a) of this section, except paragraphs (a)(2) and (3), for pharmacies when they service intermediate care facilities for the mentally retarded (ICFs/IID) and institutes for mental disease (IMDs) as defined in § 435.1010 and for I/T/U pharmacies (as defined in § 423.100).

* * * * *

■ 43. Amend § 423.322 by revising paragraph (b) to read as follows:

§ 423.322 Requirement for disclosure of information.

* * * * *

(b) *Restrictions on use of information.* (1) Officers, employees, and contractors of the Department of Health and Human Services may use the information disclosed or obtained in accordance with the provisions of this subpart for the purposes of, and to the extent necessary—

(i) In carrying out this subpart, including, but not limited to, determination of payments, and payment-related oversight and program integrity activities.

(ii) In conducting oversight, evaluation, and enforcement under Title XVIII of the Act.

(2) The United States Attorney General and the Comptroller General of the United States may use the information disclosed or obtained in accordance with the provisions of this subpart for purposes of, and to the extent necessary in, carrying out health oversight activities.

(3) The restrictions described in paragraphs (b)(1) and (2) of this section do not limit either of the following:

(i) OIG's authority to fulfill the Inspector General's responsibilities in accordance with applicable Federal law.

(ii) CMS' ability to use data regarding drug claims in accordance with section 1848(m) of the Act.

§ 423.329 [Amended]

■ 44. Amend § 423.329(d)(1), by removing the phrase ''the amount described in § 423.782.'' and adding in its place the phrase ''the difference between the cost sharing for a non-low-income subsidy eligible beneficiary under the Part D plan and the statutory cost sharing for a low-income subsidy eligible beneficiary.''

§ 423.346 [Amended]

■ 45. Amend § 423.346(a) introductory text by removing the phrase ''as described in § 423.336)—'' and adding in its place the phrase ''as described in § 423.336) or the Coverage Gap Discount Reconciliation (as described at § 423.2320(b))—'' .

■ 46. Amend § 423.350 as follows:

■ a. In paragraph (a)(1)(iii), by removing ''; or'' and adding in its place ''.''.

■ b. In paragraph (a)(1)(iv), by removing '').'' adding in its place ''.''.

■ c. By adding paragraph (a)(1)(v).

■ d. By revising paragraph (a)(2).

■ e. By adding paragraph (b)(1)(iv).

The additions and revision read as follows:

§ 423.350 Payment appeals.

(a) * * *

(1) * * *

(v) The reconciled coverage gap discount payment under § 423.2320(b).

(2) *Payment information not subject to appeal.* Payment information submitted to CMS under § 423.322 and reconciled under § 423.343 or submitted and reconciled under § 423.2320(b) is final and may not be appealed nor may the appeals process be used to submit new information after the submission of information necessary to determine retroactive adjustments and reconciliations.

(b) * * *

(1) * * *

(iv) For the Coverage Gap Discount Program, the date of the final reconciled payment under § 423.2320(b).

* * * * *

■ 47. Amend § 423.464 by redesignating paragraph (f)(2)(i)(B) as paragraph (f)(2)(i)(C) and adding paragraph (f)(2)(i)(B) to read as follows:

§ 423.464 Coordination of benefits with other providers of prescription drug coverage.

* * * * *

(f) * * *

(2) * * *

(i) * * *

(B) Report, accept and apply benefit accumulator data in a timeframe and manner determined by CMS.

* * * * *

■ 48. Amend § 423.466 by revising the section heading and, in paragraph (b), removing the phrase ''a period not to exceed 3 years'' and adding in its place the phrase ''a period of 3 years'' to read as follows:

§ 423.466 Timeframes for coordination of benefits and claims adjustments.

* * * * *

■ 49. Amend § 423.503 by revising paragraph (a)(1) and adding paragraphs (c)(4) and (d) to read as follows:

§ 423.503 Evaluation and determination procedures for applications to be determined qualified to act as a sponsor.

(a) * * *

(1) With the exception of evaluations conducted under paragraph (b) of this section, CMS evaluates an entity's application solely on the basis of information contained in the application itself and any additional information that CMS obtains through on-site visits and any essential operations test.

* * * * *

(c) * * *

(4) *Nullification of approval of application.* If CMS discovers through any means that an applicant is not qualified to contract based on information gained subsequent to application approval (for example, failure of an essential operations test, absence of required employees, etc.), CMS gives the applicant written notice indicating that the approval issued under paragraph (c)(1) of this section is nullified and the applicant no longer qualifies to contract as a Part D plan sponsor.

(i) This determination is not subject to the appeals provisions in subpart N of this part.

(ii) This provision only applies to applicants that have not previously entered into a Part D contract with CMS and neither it, nor another subsidiary of the applicant's parent organization, is offering Part D benefits during the current year.

(d) *Withdrawal of application and bid in a previous year.* An applicant that withdraws its application and corresponding bid after the release of the low-income subsidy benchmark is not eligible to be approved as a Part D plan sponsor for the 2 succeeding annual contracting cycles.

■ 50. Amend § 423.504 by adding paragraphs (b)(10) and (d)(2)(iv) to read as follows:

§ 423.504 General provisions.

* * * * *

(b) * * *

(10) Pass an essential operations test prior to the start of the benefit year. This provision only applies to new sponsors that have not previously entered into a Part D contract with CMS when neither it, nor another subsidiary of the applicant's parent organization, is offering Part D benefits during the current year.

* * * * *

(d) * * *

(2) * * *

(iv) CMS may require that the Part D Plan sponsor hire an independent auditor to provide CMS with additional information to determine if deficiencies found during an audit or inspection have been corrected and are not likely to recur. The independent auditor must work in accordance with CMS specifications and must be willing to attest that a complete and full independent review has been performed.

* * * * *

■ 51. Amend § 423.505 by adding paragraphs (b)(27) and (p) to read as follows:

§ 423.505 Contact provisions.

* * * * *

(b) * * *

(27) Pass an essential operations test prior to the start of the benefit year. This provision only applies to new sponsors that have not previously entered into a Part D contract with CMS and neither it, nor another subsidiary of the applicant's parent organization, is offering Part D benefits during the current year.

* * * * *

(p) *Business continuity.* (1) The Part D sponsor agrees to develop, maintain, and implement a business continuity plan containing policies and procedures to ensure the restoration of business operations following disruptions to business operations during disruptions to business operations which would

include natural or man-made disasters, system failures, emergencies, and other similar circumstances and the threat of such occurrences. To meet the requirement, the business continuity plan must, at a minimum, include the following:

(i) *Risk assessment.* Identify threats and vulnerabilities that might affect business operations.

(ii) *Mitigation strategy.* Design strategies to mitigate hazards. Identify essential functions in addition to those specified in paragraph (p)(2) of this section and prioritize the order in which to restore all other functions to normal operations. At a minimum, each Part D sponsor must do the following:

(A) Identify specific events that will activate the business continuity plan.

(B) Develop a contingency plan to maintain, during any business disruption, the availability and, as applicable, confidentiality of communication systems and essential records in all forms (including electronic and paper copies). The contingency plan must do the following:

(*1*) Ensure that during any business disruption the following systems will operate continuously or, should they fail, be restored to operational capacity on a timely basis:

(*i*) Information technology (IT) systems including those supporting claims processing at point of service.

(*ii*) Provider and enrollee communication systems including telephone, Web site, and email.

(*2*) With respect to electronic protected health information, comply with the contingency plan requirements of the Health Insurance Portability and Accountability Act of 1996 Security Regulations at 45 CFR parts 160 and 164, subparts A and C.

(C) Establish a chain of command.

(D) Establish a business communication plan that includes emergency capabilities and procedures to contact and communicate with the following:

(*1*) Employees.

(*2*) First tier, downstream, and related entities.

(*3*) Other third parties (including pharmacies, providers, suppliers, and government and emergency management officials).

(E) Establish employee and facility management plans to ensure that essential operations and job responsibilities can be assumed by other employees or moved to alternate sites as necessary or both.

(F) Establish a restoration plan including procedures to transition to normal operations.

(G) Comply with all applicable Federal, State, and local laws.

(iii) *Testing and revision.* On at least an annual basis, test and update the business operations continuity plan to ensure the following:

(A) That it can be implemented in emergency situations.

(B) That employees understand how it is to be executed.

(iv) *Training.* On at least an annual basis, educate appropriate employees about the business continuity plan and their own respective roles.

(v) *Records.* (A) Develop and maintain records documenting the elements of the business continuity plan described in paragraph (p)(1)(i) through (iv) of this section.

(B) Make the information specified in paragraph (p)(1)(v)(A) of this section available to CMS upon request.

(2) *Restoration of essential functions.* Every Part D sponsor must plan to restore essential functions within 72 hours after any of the essential functions fail or otherwise stop functioning as usual. In addition to any essential functions that the Part D sponsor identifies under paragraph (p)(1)(ii) of this section, for purposes of this paragraph (p)(2) of this section essential functions include at a minimum, the following:

(i) Benefit authorization (if not waived), adjudication, and processing of prescription drug claims at the point of sale.

(ii) Administration and tracking of enrollees' drug benefits in real time, including automated coordination of benefits with other payers.

(iii) Provision of pharmacy technical assistance.

(iv) Operation of an enrollee exceptions and appeals process including coverage determinations.

(v) Operation of call center customer services.

■ 52. Amend § 423.509 by adding paragraph (a)(4)(xii) and revising paragraph (b)(2)(i)(C) to read as follows:

§ 423.509 Termination of a contract by CMS.

(a) * * *

(4) * * *

(xii) Failure of an essential operations test before the start of the benefit year by an organization that has entered into a Part D contract with CMS when neither it, nor another subsidiary of the organization's parent organization, is offering Part D benefits during the current year.

(b) * * *

(2) * * *

(i) * * *

(C) The contract is being terminated based on the grounds specified in paragraphs (a)(4)(i) and (xii) of this section.

* * * * *

§ 423.562 [Amended]

■ 53. Amend § 423.562(a)(3) by removing the phrase ''request an exception if they disagree with the information provided by the pharmacist.'' and adding in its place the phrase ''request an exception.''.

§ 423.650 [Amended]

■ 54. Amend § 423.650 as follows:

■ a. In paragraph (a)(2), by removing the term ''under'' and adding in its place the phrase ''in accordance with''.

■ b. In paragraph (a)(4), by removing the cross-reference ''§ 423.752(a) and (b) of this part'' and adding in its place the cross-reference ''§ 423.752(a) through (b)''.

■ 55. Amend § 423.2262 by adding paragraph (a)(2) to read as follows:

§ 423.2262 Review and distribution of marketing materials.

(a) * * *

(2) If CMS does not approve or does not disapprove marketing materials within the specified review timeframe, the materials are deemed approved and the Part D sponsor may use the material.

* * * * *

§ 423.2266 [Removed and Reserved]

■ 56. Section 423.2266 is removed and reserved.

■ 57. Amend § 423.2274 by revising paragraphs (c) and (d) to read as follows:

§ 423.2274 Broker and agent requirements.

* * * * *

(c) *Annual training.* The Part D sponsor must ensure that all agents and brokers selling Medicare products are trained annually on the following:

(1) Medicare rules and regulations.

(2) Details specific to the plan products they intend to sell.

(d) *Annual testing.* The Part D sponsor must ensure that all agents and brokers selling Medicare products are tested annually, to ensure the following:

(1) Appropriate knowledge and understanding of Medicare rules and regulations.

(2) Details specific to the plan products they intend to sell.

* * * * *

■ 58. Amend § 423.2320 by adding paragraph (c) to read as follows:

§ 423.2320 Payment processes for Part D sponsors.

* * * * *

(c) *Manufacturer bankruptcy.* In the event that a manufacturer declares

bankruptcy, as described in Title 11 of the United States Code, and as a result of the bankruptcy, does not pay the quarterly invoices described in § 423.2315(b)(10) used for a particular contract year's Coverage Gap Discount Reconciliation described in paragraph (b) of this section, CMS adjusts the Coverage Gap Discount Reconciliation amount of each of the affected Part D sponsors to account for the total unpaid quarterly invoiced amount owed to each of the Part D sponsors for that particular contract year being reconciled.

■ 59. Amend § 423.2325 by adding paragraph (h) to read as follows:

§ 423.2325 Provision of applicable discounts.

* * * * *

(h) *Treatment of employer group waiver plans.* As of 2014, Part D sponsors offering employer group waiver plans must provide applicable discounts to applicable beneficiaries who are employer group waiver plan enrollees as determined consistent with the defined standard benefit.

Dated: December 18, 2014.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

Approved: February 4, 2015.

Sylvia M. Burwell,

Secretary, Department of Health and Human Services.

[FR Doc. 2015–02671 Filed 2–6–15; 4:15 pm]

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